

































































































































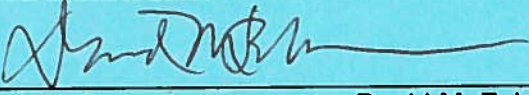









**TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION**

|  |   |   |                         |
|--|---|---|-------------------------|
| <b>SUBJECT:</b> AN ORDINANCE AMENDING THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO THE PROHIBITION OF ILLICIT SYNTHETIC DRUGS, DECLARING CERTAIN CONDUCT TO BE UNLAWFUL AND PROVIDING A PENALTY   |   | <b>Page</b><br>1 of 1   | <b>Agenda Item</b><br># |
| <b>FROM (Department or other point of origin):</b><br><br>Legal Department, Houston Police Department  |   | <b>Origination Date</b>   | <b>Agenda Date</b>      |
| <b>DIRECTOR'S SIGNATURE:</b><br>  |   | <b>Council District affected:</b><br><br>All                                    |                         |
| <b>For additional information contact:</b> David M. Feldman<br><b>Phone:</b> 832-393-6412  |   | <b>Date and identification of prior authorizing Council action:</b><br><br>None |                         |
| <b>RECOMMENDATION: (Summary)</b><br>Approve the proposed ordinance relating to the prohibition of illicit synthetic drugs.   |   |   |                         |
| <b>Amount and Source of Funding:</b><br>N/A  |   |   |                         |
| <b>SPECIFIC EXPLANATION:</b><br><p>The City Attorney recommends that City Council amend the Code of Ordinances to prohibit the possession, sale, manufacture and distribution of illicit synthetic drugs ("Kush"). These illicit synthetic drugs contain synthetic chemicals that mimic the intoxicating effects of marijuana, ecstasy, methamphetamines, and other controlled substances. These substances are often sold in legal retail outlets, and although marketed as safe and legal substitutes to controlled substances, illicit synthetic drugs have been shown to cause deadly side effects, including intense hallucinations, rapid heartbeat, psychotic episodes, and suicidal thoughts and actions. The use of such drugs is particularly prevalent amongst young people, causing many to suffer serious side effects.</p> <p>Despite federal and state intervention, illicit synthetic drug production and use is rampant, because manufacturers continually reconfigure the banned substances to produce new synthetic drugs not subject to existing regulations. These illicit synthetic drugs are often labeled as "herbal incense" and "not for human consumption" to mask their intended purpose and to avoid FDA regulatory oversight of the manufacturing process. Regulation of illicit synthetic drugs is necessary on a local level to target those substances and chemical compounds that are escaping federal and state control. Surrounding cities, such as Pearland, Pasadena, and La Porte, have already passed ordinances aimed at illicit synthetic drugs.</p> <p>A violation of the provisions of the ordinance is a Class C misdemeanor, punishable, upon conviction, by a fine not exceeding \$2,000.00.</p> <p>This item was presented to the Quality of Life Committee on September 18, 2014.</p> |   |   |                         |
| <b>REQUIRED AUTHORIZATION</b>  |   |   |                         |
| <b>Other Authorization:</b><br>Charles A. McClelland, Jr.<br>Chief of Police, HPD  | <b>Other Authorization:</b><br> | <b>Other Authorization:</b>   |                         |

**City of Houston, Texas, Ordinance No. 2014-\_\_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO THE PROHIBITION OF ILLICIT SYNTHETIC DRUGS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL AND PROVIDING A PENALTY THEREFOR; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, the City Council finds that a wide variety of herbal and plant materials containing synthetic chemicals are being produced to mimic the intoxicating effects of marijuana, ecstasy, methamphetamines, and other controlled substances; and

**WHEREAS**, these designer illicit synthetic drugs (“synthetic cannabinoids”, commonly referred to as “Kush”) are often sold in legal retail outlets as household products such as “herbal incense” and labeled “not for human consumption” to mask their intended purpose and to avoid the U.S. Food and Drug Administration’s regulatory oversight of the manufacturing process; and

**WHEREAS**, the Drug Enforcement Administration recognizes that synthetic cannabinoids constitute an immediate hazard to public safety; and

**WHEREAS**, the U.S. Customs and Border Protection found a number of illicit synthetic drugs appear to originate overseas and are manufactured in the absence of quality controls and devoid of governmental regulatory oversight; and

**WHEREAS**, such substances have been reported to cause serious side effects that endanger the health and safety of individuals, including severe agitation and anxiety, racing heartbeat and higher blood pressure, nausea and vomiting, muscle spasms, seizures, and tremors, intense hallucinations, psychotic episodes, and suicidal thoughts and actions; and

**WHEREAS**, the University of Michigan Institute for Social Research found that in 2013 these illicit synthetic drugs were the second most widely used illicit drug (after marijuana) among tenth graders, and the third most used (after marijuana and amphetamines) among twelfth graders; and

**WHEREAS**, the packaging and representations made at the point of sale of illicit synthetic drugs often indicate, suggest, imply, or represent that the product is a substitute for or mimics the pharmacological effects of marijuana, ecstasy, methamphetamines or other controlled substances, or controlled substance analogues as defined by section 481.002 of the Texas Health and Safety Code; and

**WHEREAS**, businesses that sell illicit synthetic drugs often conceal them from public display so as to escape the notice of law enforcement personnel; and

**WHEREAS**, the illicit synthetic drugs are sometimes marketed as a safe and legal substitute to marijuana; and

**WHEREAS**, the packaging of the illicit synthetic drugs does not provide accurate information about the synthetic chemicals in or on the product; and

**WHEREAS**, despite the best efforts of federal and state legislators to outlaw illicit synthetic drugs, manufacturers continually reconfigure the banned substances to produce new synthetic drugs not subject to existing regulations; and

**WHEREAS**, City Council finds regulation of illicit synthetic drugs is necessary to complement current state and federal laws and to protect the public health, safety and welfare; **NOW, THEREFORE**;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article XVII that reads as follows:

**"ARTICLE XVII. ILLICIT SYNTHETIC DRUGS**

**Sec. 28-571. Definitions.**

The following words, terms and phrases, whenever used in this article, shall have the meanings set forth in this section, unless the context of their usage clearly indicates a different meaning:

*Herbal incense* means aromatic plant material, whether referred to as potpourri or otherwise, that is distributed in a loose, leafy, powder or granular form or in a compressed block or blocks that can be crushed to result in a powder or granular form, and can be placed into a pipe, cigarette paper, or other drug paraphernalia for purposes of ingestion by smoking, inhaling or other method, regardless of how the substance is labeled or marketed, including, but not limited to, whether or not such product is labeled 'as not for human consumption.'



*Illicit synthetic drug* means:

- (1) Any vegetative material, or herbal or plant material, however constituted, designed, intended, marketed, manufactured, or engineered, that contains any quantity of a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of the product.
- (2) Any vegetative material, or herbal or plant material, with packaging or labeling that indicates, suggests, or implies that the substance is a substitute for or otherwise mimics the pharmacological effects of marihuana ('marijuana'), a controlled substance, or a controlled substance analogue as defined by section 481.002 of the Texas Health and Safety Code.
- (3) Any vegetative material, or herbal or plant material, offered for sale or sold with verbal or written representations regarding the purpose, methods, use, or effect of the substance that indicates, suggests, or implies that the substance mimics the pharmacological effects of marihuana ('marijuana'), a controlled substance, or a controlled substance analogue as defined by section 481.002 of the Texas Health and Safety Code.

**Sec. 28-572. Prohibition of illicit synthetic drug.**

It shall be unlawful for any person to possess, provide, sell, barter, produce, manufacture, distribute, or to offer, display, market or advertise for sale, or purchase with the intent to provide, sell, barter, produce, manufacture, or distribute, or to offer, display, market or advertise for sale any illicit synthetic drug.

**Sec. 28-573. Failure to publicly display or label herbal incense.**

(a) Herbal incense offered for sale to the public must be publicly displayed at all times through actual or representative packaging.

(b) All herbal incense offered for sale to the public must include a label listing each active ingredient.

**Sec. 28-574. Penalty.**

(a) Any violation of section 28-572 of this Code is a misdemeanor punishable upon conviction by a fine not to exceed \$2000.00. Each

separate package, container, or other separate unit containing an illicit synthetic drug shall constitute a separate and distinct offense.

(b) Any violation of section 28-573 of this Code is a misdemeanor punishable upon conviction by a fine not to exceed \$2,000.00. Each separate package, container, or other separate unit containing any herbal incense shall constitute a separate and distinct offense.

(c) Prosecution or conviction under this article is cumulative of and shall never be a bar to any other civil or administrative remedy provided or allowed in this article or by law.

**Sec. 28-575. Affirmative defenses.**

(a) It is a defense to prosecution under the provisions of this article that the person possessed the illicit synthetic drug under the lawful supervision of an authorized law enforcement officer to enforce or ensure compliance with this article.

(b) It is a defense to prosecution that a violation of this article is expressly permitted by state or federal law.

**Sec. 28-576. Seizure.**

Any product or substance possessed, provided, sold, bartered, produced, manufactured, distributed, or offered, displayed, marketed or advertised for sale or purchased with the intent to provide, sell, barter, produce, manufacture, or distribute, or to offer, display, market or advertise for sale, in violation of any provision of this article, may be seized by any peace officer. Such product or substance may be destroyed as authorized by state law after its use for evidentiary purposes is no longer required."

**Section 3.** That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

**Section 4.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of

circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 5.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

**PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.**

\_\_\_\_\_  
Mayor of the City of Houston

Prepared by Legal Dept. \_\_\_\_\_  
TBC:asw 10/07/2014 Senior Assistant City Attorney  
Requested by David M. Feldman, City Attorney  
L.D. File No. 0421400115001



**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 10/1/2014

**ARA-DELAYING THE 2014-2015 TAXICAB PERMIT APPLICATION AND DISTRIBUTION PROCESS AND CORRECTING SCRIVENER'S ERRORS AND CERTAIN HOUSEKEEPING MATTERS IN CHAPTER 46 (1)**

Agenda Item#: 13.

**Summary:**

ORDINANCE **AMENDING CHAPTER 46 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to regulation of vehicles for hire; standardizing licensee appearance requirements; standardizing the vehicle for hire passenger solicitation prohibition; amending taxicab identification and airport use fee provisions; declaring certain conduct unlawful and providing penalties therefore; containing findings and other provisions relating to the foregoing subject; providing for severability

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve an ordinance to delay the 2014-2015 taxicab permit application and distribution process until September 2015, and correct scrivener's errors and certain housekeeping matters in Chapter 46.

Chapter 46 of the City of Houston Code of Ordinances provides for the City to accept and consider applications for the issuance of taxicab permits at three-year intervals. Although the ordinance directs that taxicab permits be distributed during these periods, permit issuance is not automatic. Section 46-63 of the Code provides for a mathematical determination of market demand for additional permits, by comparing growth in population and airport trips since the last time permit issuance was considered. As a result of the application of this formula, the last time permits were issued was in 2011 based on the 2007 taxicab permit computation.

Attached is the preliminary computation for 2014. Based on this preliminary computation, the City will begin taking applications in November 2014, for the issuance of 205 additional taxicab permits in May 2015. The computation and instructions on how to submit an appeal were published in The Houston Chronicle on September 1, 2014. Simultaneously, the computation was mailed to each taxicab permit holder, as well as all taxicab drivers, for a total of approximately 5,000 notices. The computation may be appealed by any interested person who submitted their written appeal to ARA by September 15, 2014. A public hearing will be held on October 8, 2014 to review all appeals to the computation of taxicab permits to be issued. There were eight appeals received by the September 15 deadline.

ARA is concerned that the computation formula may not adequately reflect actual market demand and the actual existing need for additional taxicab permits to accommodate the interests of the public. The current formula takes into account only growth in demand for taxicab trips at Houston's airport stands, using population growth as a proxy for citywide or dispatch demand. The formula is not dynamic and it does not take into account external factors that may affect demand for taxicab services. City Council recently approved an ordinance creating a regulatory framework for Transportation Network Companies (TNCs) to operate in Houston. While these services may not adversely impact demand for taxicab services, as the new ordinance provisions allowing new entrants do not become effective until November 4th, there is no way to quantify the impact on taxicab demand and the need for additional taxicab permits for several months thereafter.

In addition, City Council has expressed an interest in reviewing the permit distribution methodology prescribed in the current ordinance and the resulting composition of the taxicab fleet. Specifically, on August 6, 2014 when City Council approved the omnibus changes to Chapter 46, ARA committed to return to Council with a recommendation for a distribution methodology that would include a provision for the creation of a driver-owned company. A delay in the taxicab application and distribution process will allow ARA and City Council to review alternatives with taxicab stakeholders and other interested members of the community to determine the changes that are needed.

In addition to requesting a delay in the application and distribution process for taxicab permits, since the adoption of the amendments to Chapter 46 in August, ARA and stakeholders have identified scrivener's errors and minor oversights in the ordinance that was approved. ARA respectfully requests the following additional amendments to Chapter 46:

- Remove the rooftop lettering requirement for taxicabs in Section 46-21, as this would impose unintended and unnecessary costs on the taxicab industry. ARA has been advised that this requirement would cost an average of \$50.00 per vehicle to implement, which would be cost prohibitive for the larger fleet owners.
- Move the driver appearance standards from 46-351 to Article I so that these standards apply to all vehicle-for-hire drivers. This relocation was intended but was an oversight in the ordinance presented on August 6th.
- Correct scrivener's errors in Sections 46-23(e), 46-31(3), and 46-331(b)(5).
- Move the prohibition on soliciting passengers from Section 46-40 to Article I so that this prohibition applies to vehicles-for-hire, in general. This relocation was intended but was an oversight in the ordinance presented on August 6th.
- Amend the vehicle removal language in Section 46-11.4(a) to read "may" instead of "shall." The provision as written does not mirror language in other places in the Code of Ordinances which gives the officer discretion.
- Amend Section 46-352(d)(4)(d) to allow a jitney to display the vehicle route name on the front of the vehicle. This change was intended but was an oversight in the ordinance presented on August 6th.

**Prior Council Action:**

8/6/2014; Ord. #2014-754

**Amount of Funding:**

n/a

**Contact Information:**

Lara Cottingham Phone: (832) 393-8503

Kathryn Bruning Phone: (832) 394-9414

**ATTACHMENTS:**

| Description   | Type                        |
|---|-----------------------------|
| 9.30.2014 Taxi Permit Distribution RCA  | Backup Material             |
| 8.28.2014 Taxi Permit Computation 2015 (As printed in Houston Chronicle)  | Public Notice               |
| 9.1.2014 Taxi Permit Distribution Letter (As sent to all permit holders)  | Public Notice               |
| ARA-DELAYING THE 2014-2015 TAXICAB PERMIT APPLICATION AND DISTRIBUTION PROCESS AND CORRECTING SCRIVENER'S ERRORS AND CERTAIN HOUSEKEEPING MATTERS IN CHAPTER 46 (1) ORD     | Ordinance/Resolution/Motion |
| ARA-DELAYING THE 2014-2015 TAXICAB PERMIT APPLICATION AND DISTRIBUTION PROCESS AND CORRECTING SCRIVENER'S ERRORS AND CERTAIN HOUSEKEEPING MATTERS IN CHAPTER 46 (1) REDLINE | Ordinance/Resolution/Motion |

# REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA#

**Subject: APPROVE AN ORDINANCE DELAYING THE 2014-2015 TAXICAB PERMIT APPLICATION AND DISTRIBUTION PROCESS AND CORRECTING SCRIVENER'S ERRORS AND CERTAIN HOUSEKEEPING MATTERS IN CHAPTER 46**

Category #

Page 1 of 2

Agenda Item

**FROM (Department or other point of origin):**

Tina Paez, Director  
Administration & Regulatory Affairs Department

**Origination Date**

September 30, 2014

**Agenda Date**

**DIRECTOR'S SIGNATURE**



**Council District(s) affected:**

All

**For additional information contact:**

Lara Cottingham Phone: (832) 393-8503  
Kathryn Bruning Phone: (832) 394-9414

**Date and Identification of prior authorizing**

**Council Action:**  
8/6/2014; Ord. #2014-754

**RECOMMENDATION: (Summary)**

Approve an ordinance delaying the 2014-2015 taxicab permit application and distribution process until September 2015, and correcting scrivener's errors and certain housekeeping matters in Chapter 46.

**Amount of Funding:** N/A

**FIN Budget**

**SOURCE OF FUNDING:** N/A

**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve an ordinance to delay the 2014-2015 taxicab permit application and distribution process until September 2015, and correct scrivener's errors and certain housekeeping matters in Chapter 46.

Chapter 46 of the City of Houston Code of Ordinances provides for the City to accept and consider applications for the issuance of taxicab permits at three-year intervals. Although the ordinance directs that taxicab permits be distributed during these periods, permit issuance is not automatic. Section 46-63 of the Code provides for a mathematical determination of market demand for additional permits, by comparing growth in population and airport trips since the last time permit issuance was considered. As a result of the application of this formula, the last time permits were issued was in 2011 based on the 2007 taxicab permit computation.

Attached is the preliminary computation for 2014. Based on this preliminary computation, the City will begin taking applications in November 2014, for the issuance of 205 additional taxicab permits in May 2015. The computation and instructions on how to submit an appeal were published in *The Houston Chronicle* on September 1, 2014. Simultaneously, the computation was mailed to each taxicab permit holder, as well as all taxicab drivers, for a total of approximately 5,000 notices. The computation may be appealed by any interested person who submitted their written appeal to ARA by September 15, 2014. A public hearing will be held on October 8, 2014 to review all appeals to the computation of taxicab permits to be issued. There were eight appeals received by the September 15 deadline.

ARA is concerned that the computation formula may not adequately reflect actual market demand and the actual existing need for additional taxicab permits to accommodate the interests of the public. The current formula takes into account only growth in demand for taxicab trips at Houston's airport stands, using population growth as a proxy for citywide or dispatch demand. The formula is not dynamic and it does not take into account external factors that may affect demand for taxicab services. City Council recently approved an ordinance creating a regulatory framework for Transportation Network Companies (TNCs) to operate in Houston. While these services may not adversely impact demand for taxicab services, as the new ordinance provisions allowing new entrants do not become effective until November 4<sup>th</sup>, there is no way to quantify the impact on taxicab demand and the need for additional taxicab permits for several months thereafter.

In addition, City Council has expressed an interest in reviewing the permit distribution methodology prescribed in the current ordinance and the resulting composition of the taxicab fleet. Specifically, on August 6, 2014 when City Council

**REQUIRED AUTHORIZATION**

FIN Department:

Other Authorization:

Other Authorization:

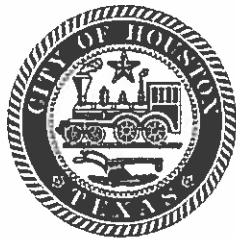


|                   |  |                                |             |
|-------------------|--|--------------------------------|-------------|
| Date:<br>09/30/14 | <b>Subject: APPROVE AN ORDINANCE DELAYING THE<br/>2014-2015 TAXICAB PERMIT APPLICATION AND<br/>DISTRIBUTION PROCESS AND CORRECTING<br/>SCRIVENER'S ERRORS AND CERTAIN<br/>HOUSEKEEPING MATTERS IN CHAPTER 46</b> | Originator's<br>Initials<br>TP | Page 2 of 2 |
|-------------------|--|--------------------------------|-------------|

approved the omnibus changes to Chapter 46, ARA committed to return to Council with a recommendation for a distribution methodology that would include a provision for the creation of a driver-owned company. A delay in the taxicab application and distribution process will allow ARA and City Council to review alternatives with taxicab stakeholders and other interested members of the community to determine the changes that are needed.

In addition to requesting a delay in the application and distribution process for taxicab permits, since the adoption of the amendments to Chapter 46 in August, ARA and stakeholders have identified scrivener's errors and minor oversights in the ordinance that was approved. ARA respectfully requests the following additional amendments to Chapter 46:

- Remove the rooftop lettering requirement for taxicabs in Section 46-21, as this would impose unintended and unnecessary costs on the taxicab industry. ARA has been advised that this requirement would cost an average of \$50.00 per vehicle to implement, which would be cost prohibitive for the larger fleet owners.
- Move the driver appearance standards from 46-351 to Article I so that these standards apply to all vehicle-for-hire drivers. This relocation was intended but was an oversight in the ordinance presented on August 6<sup>th</sup>.
- Correct scrivener's errors in Sections 46-23(e), 46-31(3), and 46-331(b)(5).
- Move the prohibition on soliciting passengers from Section 46-40 to Article I so that this prohibition applies to vehicles-for-hire, in general. This relocation was intended but was an oversight in the ordinance presented on August 6<sup>th</sup>.
- Amend the vehicle removal language in Section 46-11.4(a) to read "may" instead of "shall." The provision as written does not mirror language in other places in the Code of Ordinances which gives the officer discretion.
- Amend Section 46-352(d)(4)(d) to allow a jitney to display the vehicle route name on the front of the vehicle. This change was intended but was an oversight in the ordinance presented on August 6<sup>th</sup>.



# CITY OF HOUSTON

Administration & Regulatory Affairs

## Interoffice

Correspondence

**To:** Anna Russell,  
City Secretary

**From:** Tina Paez, Director  
Administration & Regulatory Affairs

**Date:** August 28, 2014

**cc:** Janice Evans, Mayors Office  
James Koski, Mayors Office  
Christopher Newport, Mayors Office  
Kathryn Bruning, ARA Dept.  
Nikki Cooper, ARA Dept.

**Subject:** Publish Taxicab Permit  
Computation Notice

Please publish the attached notice in the Houston Chronicle, Monday, September 1, 2014. Thank you for your attention to this matter. Please contact Nikki Cooper-Soto at 832-394-9433 if there are any questions.

Kindest Regards,

  
Tina Paez, Director  
Regulatory Affairs Division

Pursuant to Chapter 46 of the Houston Code of Ordinances, the following is the computation of additional taxicab permits to be issued for 2015.

| <b>Three-Year Average Method</b>  |                |
|---|----------------|
| Average Airport Taxicab Usage (Three-Year Average for 2011, 2012, 2013)   | 649,286        |
| Base Year Airport Taxicab Usage   | 548,947        |
| Difference  | 100,339        |
| Percentage Change   | 18.28%         |
| <br>Average Population Estimate (Three-Year Average for 2011, 2012, 2013) | <br>2,160,977  |
| Base Year Population  | 2,198,520      |
| Difference  | -37,543        |
| Percentage Change   | -1.71%         |
| <br>Permit Adjustment Factor  | <br>8.29%      |
| Permit Year Base Permit Number  | 2480           |
| Permit Year Base Permittee Number   | 138            |
| <br><b>Number of Taxicab Permits to be Issued</b>                         | <br><b>205</b> |

Appeals of the computation of taxicab permits to be issued (i.e. taxicab permit adjustment factor, permit year base permit number, permit year base permittee number) are due by Monday, September 15, 2014. Appeals must specify any errors in the computation and must be RECEIVED by the City of Houston's Administration and Regulatory Affairs Department no later than 4:00 p.m. on Monday, September 15, 2014. Any appeal received after that date will not be considered.

Please mail and address the appeals to:

Nikki Cooper-Soto  
City of Houston, Administration and Regulatory Affairs Department  
1002 Washington Avenue  
Houston, TX 77002

A hearing shall be conducted for the purpose of reviewing all appeals to the computation of taxicab permits to be issued in 2015. The hearing will be held at 3:00 p.m. on Wednesday October 8, 2014 in the City Hall Annex Council Chambers located at 900 Bagby, Public Level. All interested appellants should attend. No further notice of the hearing shall be given.

---



# CITY OF HOUSTON

Administration & Regulatory Affairs  
Department

**Annise D. Parker**

Mayor

Tina Paez, Director  
Administration & Regulatory  
Affairs Department  
P.O. Box 1561  
Houston, Texas 77251-1562

T. 832.394.8803  
F. 832.395.9632  
[www.houstontx.gov/ara](http://www.houstontx.gov/ara)

September 1, 2014

**To:** Taxicab Permit Holders and Drivers

**From:** Kathryn Bruning, Assistant Director, Administration & Regulatory Affairs Department

*Kathryn  
Bruning*

**Re:** Computation of Taxicab Permits to be Distributed

Pursuant to §46-61 and §46-63 of the Houston Code of Ordinances, following is the 2014 computation of taxicab permits to be distributed. The computation results in 205 additional permits to be distributed. For information regarding the distribution of the permits, as well as the timeline, please see §46-61 through §46-66 of the Code of Ordinances.

| Computation of Taxicab Permits to be Distributed                        |            |
|---|------------|
| Average Airport Taxicab Usage - Three-Year Average for 2011, 2012, 2013 | 649,286    |
| Base Year Airport Taxicab Usage   | 548,947    |
| Difference  | 100,339    |
| Percentage Change   | 18.28%     |
| Average Population Estimate - Three-Year Average for 2011, 2012, 2013   | 2,160,977  |
| Base Year Population  | 2,198,520  |
| Difference  | -37,543    |
| Percentage Change   | -1.71%     |
| Permit Adjustment Factor  | 8.29%      |
| Permit Year Base Permit Number  | 2480       |
| Permit Year Base Permittee Number                                       | 138        |
| <b>Number of Taxicab Permits to be Distributed</b>                      | <b>205</b> |

Any interested person may appeal the computation by filing a written notice of appeal with this office.

**NOTE:** Appeals must specify any errors in the above computation and must be **RECEIVED** in this office no later than 5:00 p.m. on **September 15, 2014**. Address the appeals to:

**Nikki Cooper-Soto**  
**City of Houston Administration & Regulatory Affairs Department**  
**1002 Washington Avenue**  
**Houston, Texas 77002**

A hearing shall be conducted for the purpose of reviewing all appeals to the computation of taxicab permits. The hearing will be held at 3:00 p.m. on Wednesday, October 8, 2014 in the City Hall Annex Council Chambers located at 900 Bagby, Public Level. All interested appellants should attend.

City of Houston, Texas, Ordinance No. 2014-\_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 46 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO REGULATION OF VEHICLES FOR HIRE; STANDARDIZING LICENSEE APPEARANCE REQUIREMENTS; STANDARDIZING THE VEHICLE FOR HIRE PASSENGER SOLICITATION PROHIBITION; AMENDING TAXICAB IDENTIFICATION AND AIRPORT USE FEE PROVISIONS; DECLARING CERTAIN CONDUCT UNLAWFUL AND PROVIDING PENALTIES THEREFORE; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, the City of Houston ("City") is a home-rule municipality pursuant to Article XI, Section 5 of the Texas Constitution; and

**WHEREAS**, Section 215.073 of the Local Government Code provides that a home-rule municipality may license, fix the charges or fares made by, or otherwise regulate any person who owns, operates, or controls any type of vehicle used on the public streets or alleys of the municipality for carrying passengers or freight for compensation; and

**WHEREAS**, Chapter 46 of the City of Houston Code of Ordinances ("Code") contains the City's permit-based regulatory provisions regarding the operation of vehicles for hire within the City limits; and

**WHEREAS**, the Administrative and Regulatory Affairs Department ("ARA") is responsible for the oversight and implementation of the City's regulations concerning all vehicles for hire operating within the City; and

**WHEREAS**, ARA is committed to the implementation of practical regulations that serve to improve the quality of service provided to passengers, and create uniform and equitable standards across all vehicle for hire platforms, where appropriate and possible; and

**WHEREAS**, ARA recommends that City Council adopt the proposed amendments to Chapter 46 of the Code which, in part, serve to;

- (1) Revise the taxicab permit number display requirements, such that the number must no longer be displayed on the roof of the vehicle.
- (2) Provide the Houston Police Department with the option to remove any vehicle for hire from a public street or place, where the vehicle is found to be operating in violation of Chapter 46 of the City of Houston Code of Ordinances.



- (3) Standardize vehicle for hire licensee appearance requirements.
- (4) Standardize the prohibition against solicitation of passengers by vehicle for hire licensees or permittees.
- (5) Clarify the provision that pertains to airport use fees, which may be charged in addition to metered or zone fares. **NOW, THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That Chapter 46 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 9.4 that reads as follows:

**"Sec. 46-9.4. Appearance of licensee.**

(a) It shall be the duty of every licensee to be hygienically clean, well groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while operating or in custody of a vehicle for hire.

(b) The term *suitably dressed* means the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments, except that a licensee operating a pedicab or jitney shall be permitted to wear a T-shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.

(c) Clothing that is not considered appropriate and is not permitted, when the licensee is operating a vehicle for hire includes: T-shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals. It is an affirmative defense to prosecution under this section that the licensee is a pedicab or jitney operator otherwise in compliance with the requirements articulated in this section.

(d) Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director."

**Section 3.** That the first sentence of Subsection (a) of Section 46-11.4 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"The police department may remove any vehicle from a public street or public place when probable cause exists to believe that the vehicle is being operated as a vehicle for hire without the required permit, certificate of registration, certification decal, or other authorization issued by the director and required pursuant to this chapter."

**Section 4.** That Chapter 46 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 11.7 that reads as follows:

**"Sec. 46-11.7. Preferences and soliciting of business prohibited.**

(a) It shall be unlawful for any person to seek or solicit a passenger or passengers for any vehicle for hire, other than a pedicab, whether or not the vehicle is identified as a vehicle for hire, at, in or near any passenger depot, hotel, airport, ship or ferry landing, bus stop or station, or upon any sidewalk or street or any other place in the city. It shall be unlawful for any person to call out "taxicab," "limousine," "auto for hire," "carriage," "bus," "baggage," "hotel," or any other words or gestures that could be construed as soliciting a passenger for hire. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00.

(b) It shall be unlawful for any cab starter, bell person, maitre d', or other person having the ability or authority to control the selection of vehicles for hire available for hire at any business premises to solicit a fee or other compensation or favor for the purpose of granting preference or priority rights to any vehicle for hire. The provisions of this section shall not be construed to prohibit the owner of a business premises that maintains a private off-street cabstand or limo stand area for the convenience of its patrons from entering into a written contract by which the owner receives compensation from one or more permittees in exchange for access to the premises' off-street cabstand or limo stand area. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00."

**Section 5.** That the third sentence of Subsection (b) of Section 46-21 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"The number shall be displayed on the taxicab in four separate and plainly visible locations as follows: on the right of the trunk lid when viewed from

the rear of the taxicab; on the left of the hood when viewed from the front of the taxicab; and one on each side of the taxicab immediately below the handles of the rear doors."

**Section 6.** That the last sentence of both Items (3) and (4) of Subsection (a) of Section 46-31 of the Code of Ordinances, Houston, Texas, is hereby to read as follows:

"The foregoing zone rates exclude the airport use fees, which may be additionally imposed on metered or flat fares."

**Section 7.** That Sections 46-40, 46-111, and 46-169 of the Code of Ordinances, Houston, Texas, are hereby repealed and reserved.

**Section 8.** That Subsections (c) and (d) of Section 46-239 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"(c) A licensee shall not drive for more than 12 hours in any consecutive 24-hour period and a permittee shall not permit or cause a licensee to drive a chauffeured limousine more than 12 hours in any consecutive 24-hour period.

(d) Each licensee shall, while operating a permittee's limousine, wear business attire (a dress shirt and matching slacks, dress, or skirt) or a chauffeur's uniform with a dress shirt or blouse and, for men, an appropriately tied neck tie. Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director.

(e) It is an affirmative defense to prosecution under this section that the person driving a limousine had been engaged by the permittee to perform repairs or servicing of the vehicle, and that the vehicle was not in service at the time of the alleged offense."

**Section 9.** That Item (5) of Subsection (b) of Section 46-331 of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the term *jitney service* with the term *sightseeing or charter service*.

**Section 10.** That Section 46-351 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

**"Sec. 46-351. Licensee conduct.**

No licensee shall permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, nor shall a licensee permit any passenger to stand in such a position that the licensee's vision forward or to the right front or left is blocked."

**Section 11.** That the first sentence of Subitem d of Item (4) of Subsection (d) of Section 46-352 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"The street names or route name below the permit number on each side of the vehicle or on the front of the vehicle."

**Section 12.** That Section 46-422 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

**"Sec. 46-422. Licensee conduct.**

No licensee shall permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, nor shall a licensee permit any passenger to stand in such a position that the licensee's vision forward or to the side is blocked."

**Section 13.** That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

**Section 14.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets

of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 15.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

MC  
Prepared by Legal Dept.

TE:jmb:asw 10/02/2014

  
Assistant City Attorney

Requested by Tina Paez, Director, Department of Revenue and Regulatory Affairs

L.D. File No. 037140012001

## Chapter 46 VEHICLES FOR HIRE

### ARTICLE I. IN GENERAL

#### DIVISION 1. VEHICLES FOR HIRE GENERALLY

\* \* \*

##### **Sec. 46-9.4. Appearance of licensee.**

(a) It shall be the duty of every licensee to be hygienically clean, well groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while operating or in custody of a vehicle for hire.

(b) The term *suitably dressed* means the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments, except that a licensee operating a pedicab or jitney shall be permitted to wear a T-shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.

(c) Clothing that is not considered appropriate and is not permitted, when the licensee is operating a vehicle for hire includes: T-shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals. It is an affirmative defense to prosecution under this section that the licensee is a pedicab or jitney operator otherwise in compliance with the requirements articulated in this section.

(d) Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director.

\* \* \*

##### **Sec. 46-11.4. Vehicle removal.**

(a) The police department ~~shall~~may remove any vehicle from a public street or public place when probable cause exists to believe that the vehicle is being operated as a vehicle for hire without the required permit, certificate of registration, certification decal, or other authorization issued by the director and required pursuant to this chapter. A vehicle removed pursuant to this section shall be placed in a secured facility designated by the city.

(b) If a vehicle has been removed from a public street or public place without the consent of the owner or operator, he may request a hearing to determine whether or not probable cause existed for the removal of the vehicle. Hearings under this section shall be before a municipal court judge.

(c) A person who wishes to request a hearing hereunder shall deliver a written request for the hearing to the clerk of the municipal courts not later than the 14<sup>th</sup> business day after the date the vehicle was placed in a secured facility. A person who fails to deliver the request within the specified time period waives the right to the hearing.

(d) A written hearing request under this section must contain the following information:

- (1) The name, address, and telephone number of the owner and operator of the vehicle;
- (2) The date and the location from which the vehicle was removed;
- (3) The name of the police officer who authorized the removal of the vehicle; and
- (4) The name, address, and telephone number of the secured facility to which the vehicle was removed.

(e) Upon receipt of a complete and timely filed hearing request, the clerk of the municipal courts shall schedule a hearing to occur as soon as practicable; provided, however, all hearings conducted pursuant to this section shall be held within ten business days after the date the hearing request was received.

(f) The court shall notify the vehicle owner or operator and the police officer who authorized the removal of the vehicle of the date, time and place of the hearing. The sole issue to be determined in a hearing under this section is whether probable cause existed for the removal of the vehicle.

(g) The court shall make written findings of fact and conclusions of law regarding the issues in the hearing. If the court determines that probable cause existed for the removal of the vehicle, the owner or operator of the vehicle shall pay the costs of removing and storing the vehicle prior to release of the vehicle.

(h) If the court determines that probable cause did not exist for the removal and of the vehicle, the vehicle shall be ordered released without the payment of any costs for removing and storing the vehicle. If the vehicle's owner or operator paid removal and storage costs before the hearing and the court determines that probable cause did not exist for the removal and storing of the vehicle, the city shall fully reimburse the owner or operator.

(i) The provisions of this section shall be cumulative of all other enforcement powers granted by this chapter and available to the city.

\* \* \*

**Sec. 46-11.7. Preferences and soliciting of business prohibited.**

(a) It shall be unlawful for any person to seek or solicit a passenger or passengers for any vehicle for hire, other than a pedicab, whether or not the vehicle is identified as a vehicle for hire, at, in or near any passenger depot, hotel, airport, ship or ferry landing, bus stop or station, or upon any sidewalk or street or any other place in the city. It shall be unlawful for any person to call out "taxicab," "limousine," "auto for hire," "carriage," "bus," "baggage," "hotel," or any other words or gestures that could be construed as soliciting a passenger for hire. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00.

(b) It shall be unlawful for any cab starter, bell person, maitre d', or other person having the ability or authority to control the selection of vehicles for hire available for hire at any business premises to solicit a fee or other compensation or favor for the purpose of granting preference or priority rights to any vehicle for hire. The provisions of this section shall not be construed to prohibit the owner of a business premises that maintains a private off-street cabstand or limo stand area for the convenience of its patrons from entering into a written contract by which the owner receives compensation from one or more permittees in exchange for access to the premises' off-street cabstand or limo stand area. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00.

\* \* \*

**DIVISION 2. VEHICLE FOR HIRE DRIVER LICENSES**

\* \* \*

**ARTICLE II. TAXICABS**

**DIVISION 1. GENERALLY**

\* \* \*

**Sec. 46-21. Identification of vehicles generally.**

(a) A permittee or licensee shall not drive or cause or suffer to be driven or operate or cause to be operated a taxicab in the city unless the taxicab has signs on the front doors on each side of the taxicab stating the telephone number and the name or the assumed name under which the owner operates or the name of the partnership, copartnership, association, society or corporation under which the owner operates the taxicab, as is on file with the director. The name and numbers shall be not less than three inches in length and not less than five-sixteenths of one inch in width and shall be a solid color that contrasts with the background. The name and numbers on the front door of the taxicab shall be placed in a location approved by the director. The telephone number shall also be placed where plainly visible on the rear of the taxicab.



(b) A permittee shall not operate or cause or suffer or allow to be operated a taxicab in the city unless and until a certification decal number has been assigned by the director at the time the permit is issued under this article. The number shall remain in full force and effect for each permit so long as the permit remains valid. The number shall be displayed on the taxicab in ~~five~~four separate and plainly visible locations as follows: on the right of the trunk lid when viewed from the rear of the taxicab; on the left of the hood when viewed from the front of the taxicab; and one on each side of the taxicab immediately below the handles of the rear doors; ~~and on the roof of the taxicab~~. If a taxicab has only one rear door, then the number for the side where there is no rear door shall be placed in an alternative location designated by the director. Each number on the roof of the taxicab shall be not less than twelve inches in length and not less than three inches in width and shall be a color prescribed by the director. In all other locations described in this subsection, each number shall be not less than three inches in length and not less than five-sixteenths of one inch in width.

\* \* \*

#### **Sec. 46-31. Rates prescribed.**

(a) Except for taxicabs dispatched through a mobile dispatch service, all taxicab permittees and licensees shall comply with and abide by the rates established in this section:

\* \* \*

- (3) *IAH flat rates.* Alternative flat rates shall be imposed for trips between George Bush Intercontinental Airport/Houston (IAH) and its geographic zones I through X, as follows:

| Zone | Daytime Trip—Flat Rate | Nighttime Trip—Flat Rate |
|------|------------------------|--------------------------|
| I    | \$ 45.00               | \$ 46.00                 |
| II   | 52.50                  | 53.50                    |
| III  | 60.00                  | 61.00                    |
| IV   | 65.00                  | 66.00                    |
| V    | 73.00                  | 74.00                    |
| VI   | 81.00                  | 82.00                    |
| VII  | 87.50                  | 88.50                    |
| VIII | 104.50                 | 105.50                   |
| IX   | 34.00                  | 35.00                    |
| X    | 41.00                  | 42.00                    |

Provided that the lesser of the applicable flat rate or the actual metered rate shall be charged. A copy of the zone map for IAH taxicab rates shall remain on file for public inspection in the office of the city secretary. The centers of the streets and geographic features noted thereon as boundary lines shall determine boundaries between adjacent zones. The foregoing zone rates are inclusive of ~~exclude the~~ airport use fees, which may be additionally imposed on metered or flat zone ~~fares but not on flat rate fares~~.

- (4) *HOU flat rates.* Alternative flat rates shall be imposed for trips between William P. Hobby Airport (HOU) and its geographic zones I through XI, as follows:

| Zone | Daytime Trip—Flat Rate | Nighttime Trip—Flat Rate |
|------|------------------------|--------------------------|
| I    | \$32.00                | \$33.00                  |
| II   | 26.00                  | 27.00                    |
| III  | 38.50                  | 39.50                    |
| IV   | 54.50                  | 55.50                    |
| V    | 61.50                  | 62.50                    |
| VI   | 70.00                  | 71.00                    |
| VII  | 80.50                  | 81.50                    |
| VIII | 71.00                  | 72.00                    |
| IX   | 37.50                  | 38.50                    |
| X    | 86.00                  | 87.00                    |
| XI   | 79.50                  | 80.50                    |

Provided that the lesser of the applicable flat rate or the actual metered rate shall be charged. A copy of the zone map for HOU taxicab rates shall remain on file for public inspection in the office of the city secretary. The centers of the streets and geographic features noted thereon as boundary lines shall determine boundaries between adjacent zones. The foregoing zone rates are inclusive of ~~exclude the~~ airport use fees, which may be additionally imposed on metered or zone flat rate ~~fares~~.

\* \* \*

**Secs. 46-38, 46-39. Reserved.**

**Sec. 46-40. — Preferences and soliciting of business prohibited.**

~~—— (a) It shall be unlawful for any person to seek or solicit a passenger or passengers for any vehicle for hire, whether or not the vehicle is identified as a taxicab, at, in or near any passenger depot, hotel, airport, ship or ferry landing, bus stop or station, or upon any sidewalk or street or any other place in the city. It shall be unlawful for any person to call out "taxicab," "limousine," "auto for hire," "carriage," "bus," "baggage," "hotel," or any other words or gestures that could be construed as soliciting a passenger for hire. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00.~~

~~—— (b) It shall be unlawful for any cab starter, bell person, maitre d', or other person having the ability or authority to control the selection of taxicabs available for hire at any business premises to solicit a fee or other compensation or favor for the purpose of granting preference or priority rights to any taxi. The provisions of this section shall not be construed to prohibit the owner of a business premises that maintains a private off-street cabstand area for the convenience of its patrons from entering into a written contract by which the owner receives compensation from one or more permittees in exchange for access to the premises' off street cabstand area.~~

**Secs. 46-41—46-60. Reserved.**

DIVISION 2. VEHICLE PERMIT

\* \* \*

DIVISION 3. RESERVED

**Secs. 46-86—46-110. Reserved.**

DIVISION 4. MISCELLANEOUS LICENSEE REQUIREMENTS

**Secs. 46-111. — Licensee appearance.**

~~—— (a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while a taxicab is in his or her custody.~~

~~—— (b) Subject to the limitations of subsection (d) below, the term *suitably dressed* means the licensee, if male, shall wear trousers or slacks, a shirt, with or without a tie, shoes, and, if desired, appropriate outer garments.~~

~~—— (c) Subject to the limitations of subsection (d) below, the term *suitably dressed* means the licensee, if female, shall wear a skirt, trousers, or slacks, a shirt or a blouse, shoes, and, if desired, appropriate outer garments.~~

~~—— (d) Clothing that is not considered appropriate and is not permitted, whether the licensee is male or female, includes: (1) T-shirts, underwear, tank tops, body shirts, swim wear, jogging suits, or similar types of attire when worn as an outer garment; or (2) any form of shorts.~~

**Sec. 46-112. Reserved.**

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## ARTICLE III. PEDICABS

### DIVISION 1. GENERALLY

\* \* \*

### DIVISION 2. PERMITS

\* \* \*

### DIVISION 3. PEDICAB OPERATING REQUIREMENTS

\* \* \*

**Sec. 46-169. Licensee appearanceReserved.**

~~—— (a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with the requirements of this section at all times while operating a pedicab for hire.~~

~~—— (b) The term *suitably dressed* means wearing appropriate outer garments, including, at minimum, shorts, slacks or trousers, a shirt with collar or blouse with or without a tie, and shoes. A licensee operating a pedicab shall be permitted to wear a T-shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.~~

~~—— (c) Clothing that is not considered appropriate and is not permitted when the licensee is in charge of a pedicab includes: underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, athletic shorts or trunks (jogging or bathing), or sandals.~~

\* \* \*

## **ARTICLE IV. SIGHTSEEING, CHARTER AND CHAUFFEURED LIMOUSINE SERVICES**

### **DIVISION 1. GENERALLY**

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### **DIVISION 2. SIGHTSEEING AND CHARTER SERVICES**

\* \* \*

### **DIVISION 3. CHAUFFEURED LIMOUSINE SERVICE**

\* \* \*

#### **Sec. 46-239. License; other driver requirements.**

(a) A person shall not operate a limousine upon the streets of the city unless he holds a current and valid license.

(b) At all times while in service, whether physically operating a limousine, assisting passengers, or performing other duties attendant to the provision of limousine service, it shall be the duty of the licensee to conspicuously display his license upon his upper chest. The license may be attached to the driver's outer shirt or jacket pocket or lapel, suspended from a necklace or displayed in an equivalent manner on the driver's outer garments. In any prosecution under this subsection, it shall be presumed that the driver was not in possession of a current and valid license if the license card was not conspicuously displayed as aforesaid.

(c) A licensee shall not drive for more than 12 hours in any consecutive 24-hour period and a permittee shall not permit or cause a licensee to drive a chauffeured limousine more than 12 hours in any consecutive 24-hour period.

(d) Each licensee shall, while operating a permittee's limousine, wear business attire (a dress shirt and matching slacks, dress, or skirt) or a chauffeur's uniform with a dress shirt or blouse and, for men, an appropriately tied neck tie. Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director.

(~~de~~) It is an affirmative defense to prosecution under this section that the person driving a limousine had been engaged by the permittee to perform repairs or servicing of the vehicle, and that the vehicle was not in service at the time of the alleged offense.

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## **ARTICLE V. SCHOOL VEHICLES**

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## ARTICLE VI. JITNEYS

### DIVISION 1. GENERALLY

\* \* \*

### DIVISION 2. LICENSES AND PERMITS

#### **Sec. 46-331. Permit required.**

(a) It shall be unlawful for any person to operate a jitney service unless a permit has been issued for the operation of the jitney service under this article.

(b) Each applicant for a permit required by this division must:

- (1) Have no conviction of an offense stated in subsection (c) of section 1-10 of this Code;
- (2) Identify the make, model, manufacturer's rated seating capacity and vehicle identification number for each vehicle the applicant desires to receive a permit for and operate as a jitney;
- (3) Be 18 years of age or older, if a natural person;
- (4) Be able to read and write the English language, if a natural person;
- (5) Provide evidence that the applicant has a place of business within the metropolitan area from which the applicant's ~~sightseeing or charter~~ jitney service will be operated and that such use of the location is in compliance with any applicable deed restrictions;
- (6) Hold a current and valid class A, B or C Texas driver license;
- (7) Not have had a license, permit or franchise issued under any article of this chapter denied, revoked or not renewed for cause by the city within the one-year period preceding the date of filing of the application; and
- (8) Provide any other information reasonably requested by the director for administration of this article.

\* \* \*

### DIVISION 3. OPERATING REQUIREMENTS

#### **Sec. 46-351. Licensee appearance and conduct.**

~~(a) It shall be the duty of every licensee to be hygienically clean, well groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while a jitney is in his or her custody.~~

~~—— (b) The term *suitably dressed* means the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments.~~

~~—— (c) Clothing that is not considered appropriate and is not permitted, when the licensee is in charge of a jitney includes: T-shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals.~~

~~—— (d) No licensee shall permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, nor shall a licensee permit any passenger to stand in such a position that the licensee's vision forward or to the right front or left is blocked.~~

#### **Sec. 46-352. Jitney equipment.**

\* \* \*

(d) Additionally, each jitney shall:

- (1) Be equipped with a light-equipped roof sign, which shall have the word "jitney" visible from the front and rear in red letters at least three inches tall with a brush stroke of at least 5/16 inch upon a white background and shall be illuminated at all times while the jitney is in service;
- (2) Have no taximeter;
- (3) Have the word "jitney" painted on each side of the vehicle in black in letters at least six inches tall with a brush stroke width of at least one inch;
- (4) Have the following signage in letters not less than three inches in length nor less than 5/16 of an inch in brush stroke and of contrasting color to the background:
  - a. The name and telephone number of the permittee and rate structure on both front doors;
  - b. The telephone number of the permittee on the rear deck or trunk lid;

- c. The permit number on the right side of the trunk or rear deck, the right side of the hood, and below the rear door handle on each side of the vehicle; and
  - d. The street names or route name below the permit number on each side of the vehicle or on the front of the vehicle. In the event one jitney services multiple routes, a changeable electronic or analog sign shall indicate the route the vehicle is currently servicing. The current route and rate structure for each must be posted in a conspicuous manner in the interior of the vehicle so as to be clearly visible and understood by all passengers.
- (5) Have a dashboard-mounted holder of a type approved by the director in which shall be mounted the operator's license, a photograph of the operator and one set of rate and route cards approved by the director under section 46-340 of this Code; and
- (6) Have a radio, mobile telephone or other means of two-way communication that may be used to request assistance in the event of an emergency.

The information required in items (1), (3) and (4) above shall be painted upon the vehicle, provided that the director may allow the street name or route name information only to be posted upon a magnetic sign or other removable sign of durable materials.

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## ARTICLE VII. LOW-SPEED SHUTTLES

### DIVISION 1. GENERALLY

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### DIVISION 2. PERMITS AND LICENSES

\* \* \*

### DIVISION 3. LOW-SPEED SHUTTLE OPERATING REQUIREMENTS

\* \* \*

#### **Sec. 46-422. Licensee ~~appearance and conduct.~~**

~~(a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while operating a low-speed shuttle for hire.~~



~~—— (b) The term *suitably dressed* means the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments.~~

~~—— (c) Clothing that is not considered appropriate and is not permitted, when the licensee is in charge of a low speed shuttle includes: T shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals; provided however, a licensee operating a low speed shuttle that is not equipped with an interior air conditioning system shall be permitted to wear a T shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.~~

~~—— (d) No licensee shall permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, nor shall a licensee permit any passenger to stand in such a position that the licensee's vision forward or to the side is blocked.~~

\* \* \*

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 10/1/2014

**ARA-DELAYING THE 2014-2015 TAXICAB PERMIT APPLICATION AND DISTRIBUTION PROCESS AND CORRECTING SCRIVENER'S ERRORS AND CERTAIN HOUSEKEEPING MATTERS IN CHAPTER 46 (2)**

Agenda Item#: 14.

**Summary:**

ORDINANCE relating to the issuance of taxicab permits; delaying the 2014 Taxicab Permit Issuance Process; containing findings and other provisions relating to the foregoing subject; providing for severability

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve an ordinance to delay the 2014-2015 taxicab permit application and distribution process until September 2015, and correct scrivener's errors and certain housekeeping matters in Chapter 46.

Chapter 46 of the City of Houston Code of Ordinances provides for the City to accept and consider applications for the issuance of taxicab permits at three-year intervals. Although the ordinance directs that taxicab permits be distributed during these periods, permit issuance is not automatic. Section 46-63 of the Code provides for a mathematical determination of market demand for additional permits, by comparing growth in population and airport trips since the last time permit issuance was considered. As a result of the application of this formula, the last time permits were issued was in 2011 based on the 2007 taxicab permit computation.

Attached is the preliminary computation for 2014. Based on this preliminary computation, the City will begin taking applications in November 2014, for the issuance of 205 additional taxicab permits in May 2015. The computation and instructions on how to submit an appeal were published in The Houston Chronicle on September 1, 2014. Simultaneously, the computation was mailed to each taxicab permit holder, as well as all taxicab drivers, for a total of approximately 5,000 notices. The computation may be appealed by any interested person who submitted their written appeal to ARA by September 15, 2014. A public hearing will be held on October 8, 2014 to review all appeals to the computation of taxicab permits to be issued. There were eight appeals received by the September 15 deadline.

ARA is concerned that the computation formula may not adequately reflect actual market demand and the actual existing need for additional taxicab permits to accommodate the interests of the public. The current formula takes into account only growth in demand for taxicab trips at Houston's airport stands, using population growth as a proxy for citywide or dispatch demand. The formula is not dynamic and it does not take into account external factors that may affect demand for taxicab services. City Council recently approved an ordinance creating a regulatory framework for Transportation Network Companies (TNCs) to operate in Houston. While these services may not adversely impact demand for taxicab services, as the new ordinance provisions allowing new entrants do not become effective until November 4th, there is no way to quantify the impact on taxicab demand and the need for additional taxicab permits for several months thereafter.

In addition, City Council has expressed an interest in reviewing the permit distribution methodology prescribed in the current ordinance and the resulting composition of the taxicab fleet. Specifically, on August 6, 2014 when City Council approved the omnibus changes to Chapter 46, ARA committed to return to Council with a recommendation for a distribution methodology that would include a provision for the creation of a driver-owned company. A delay in the taxicab application and distribution process will allow ARA and City Council to review alternatives with taxicab stakeholders and other interested members of the community to determine the changes that are needed.

In addition to requesting a delay in the application and distribution process for taxicab permits, since the adoption of the amendments to Chapter 46 in August, ARA and stakeholders have identified scrivener's errors and minor oversights in the ordinance that was approved. ARA respectfully requests the following additional amendments to Chapter 46:

- Remove the rooftop lettering requirement for taxicabs in Section 46-21, as this would impose

unintended and unnecessary costs on the taxicab industry. ARA has been advised that this requirement would cost an average of \$50.00 per vehicle to implement, which would be cost prohibitive for the larger fleet owners.

- Move the driver appearance standards from 46-351 to Article I so that these standards apply to all vehicle-for-hire drivers. This relocation was intended but was an oversight in the ordinance presented on August 6th.
- Correct scrivener's errors in Sections 46-23(e), 46-31(3), and 46-331(b)(5).
- Move the prohibition on soliciting passengers from Section 46-40 to Article I so that this prohibition applies to vehicles-for-hire, in general. This relocation was intended but was an oversight in the ordinance presented on August 6th.
- Amend the vehicle removal language in Section 46-11.4(a) to read "may" instead of "shall." The provision as written does not mirror language in other places in the Code of Ordinances which gives the officer discretion.
- Amend Section 46-352(d)(4)(d) to allow a jitney to display the vehicle route name on the front of the vehicle. This change was intended but was an oversight in the ordinance presented on August 6th.

**Prior Council Action:**

8/6/2014; Ord. #2014-754

**Amount of Funding:**

n/a

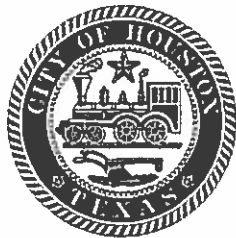
**Contact Information:**

Lara Cottingham Phone: (832) 393-8503

Kathryn Bruning Phone: (832) 394-9414

**ATTACHMENTS:**

| Description  | Type                        |
|--|-----------------------------|
| 9.30.2014 Taxi Permit Distribution RCA                                   | Backup Material             |
| 8.28.2014 Taxi Permit Computation 2015 (As printed in Houston Chronicle) | Public Notice               |
| 9.1.2014 Taxi Permit Distribution Letter (As sent to all permit holders) | Public Notice               |
| ARA-TAXICAB PERMIT ORD   | Ordinance/Resolution/Motion |
| ARA-TAXICAB PERMIT REDLINE   | Ordinance/Resolution/Motion |



# CITY OF HOUSTON

Administration & Regulatory Affairs

## Interoffice

Correspondence

**To:** Anna Russell,  
City Secretary

**From:** Tina Paez, Director  
Administration & Regulatory Affairs

**Date:** August 28, 2014

**cc:** Janice Evans, Mayors Office  
James Koski, Mayors Office  
Christopher Newport, Mayors Office  
Kathryn Bruning, ARA Dept.  
Nikki Cooper, ARA Dept.

**Subject:** Publish Taxicab Permit  
Computation Notice

Please publish the attached notice in the Houston Chronicle, Monday, September 1, 2014. Thank you for your attention to this matter. Please contact Nikki Cooper-Soto at 832-394-9433 if there are any questions.

Kindest Regards,

  
Tina Paez, Director  
Regulatory Affairs Division

Pursuant to Chapter 46 of the Houston Code of Ordinances, the following is the computation of additional taxicab permits to be issued for 2015.

| <b>Three-Year Average Method</b>  |                |
|---|----------------|
| Average Airport Taxicab Usage (Three-Year Average for 2011, 2012, 2013)   | 649,286        |
| Base Year Airport Taxicab Usage   | 548,947        |
| Difference  | 100,339        |
| Percentage Change   | 18.28%         |
| <br>Average Population Estimate (Three-Year Average for 2011, 2012, 2013) | <br>2,160,977  |
| Base Year Population  | 2,198,520      |
| Difference  | -37,543        |
| Percentage Change   | -1.71%         |
| <br>Permit Adjustment Factor  | <br>8.29%      |
| Permit Year Base Permit Number  | 2480           |
| Permit Year Base Permittee Number   | 138            |
| <br><b>Number of Taxicab Permits to be Issued</b>                         | <br><b>205</b> |

Appeals of the computation of taxicab permits to be issued (i.e. taxicab permit adjustment factor, permit year base permit number, permit year base permittee number) are due by Monday, September 15, 2014. Appeals must specify any errors in the computation and must be RECEIVED by the City of Houston's Administration and Regulatory Affairs Department no later than 4:00 p.m. on Monday, September 15, 2014. Any appeal received after that date will not be considered.

Please mail and address the appeals to:

Nikki Cooper-Soto  
City of Houston, Administration and Regulatory Affairs Department  
1002 Washington Avenue  
Houston, TX 77002

A hearing shall be conducted for the purpose of reviewing all appeals to the computation of taxicab permits to be issued in 2015. The hearing will be held at 3:00 p.m. on Wednesday October 8, 2014 in the City Hall Annex Council Chambers located at 900 Bagby, Public Level. All interested appellants should attend. No further notice of the hearing shall be given.

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# CITY OF HOUSTON

Administration & Regulatory Affairs  
Department

**Annise D. Parker**

Mayor

Tina Paez, Director  
Administration & Regulatory  
Affairs Department  
P.O. Box 1561  
Houston, Texas 77251-1562

T. 832.394.8803  
F. 832.395.9632  
[www.houstontx.gov/ara](http://www.houstontx.gov/ara)

September 1, 2014

**To:** Taxicab Permit Holders and Drivers

**From:** Kathryn Bruning, Assistant Director, Administration & Regulatory Affairs Department

*Kathryn  
Bruning*

**Re:** Computation of Taxicab Permits to be Distributed

Pursuant to §46-61 and §46-63 of the Houston Code of Ordinances, following is the 2014 computation of taxicab permits to be distributed. The computation results in 205 additional permits to be distributed. For information regarding the distribution of the permits, as well as the timeline, please see §46-61 through §46-66 of the Code of Ordinances.

| Computation of Taxicab Permits to be Distributed                        |            |
|---|------------|
| Average Airport Taxicab Usage - Three-Year Average for 2011, 2012, 2013 | 649,286    |
| Base Year Airport Taxicab Usage   | 548,947    |
| Difference  | 100,339    |
| Percentage Change   | 18.28%     |
| Average Population Estimate - Three-Year Average for 2011, 2012, 2013   | 2,160,977  |
| Base Year Population  | 2,198,520  |
| Difference  | -37,543    |
| Percentage Change   | -1.71%     |
| Permit Adjustment Factor  | 8.29%      |
| Permit Year Base Permit Number  | 2480       |
| Permit Year Base Permittee Number                                       | 138        |
| <b>Number of Taxicab Permits to be Distributed</b>                      | <b>205</b> |

Any interested person may appeal the computation by filing a written notice of appeal with this office.

**NOTE:** Appeals must specify any errors in the above computation and must be **RECEIVED** in this office no later than 5:00 p.m. on **September 15, 2014**. Address the appeals to:

**Nikki Cooper-Soto**  
**City of Houston Administration & Regulatory Affairs Department**  
**1002 Washington Avenue**  
**Houston, Texas 77002**

A hearing shall be conducted for the purpose of reviewing all appeals to the computation of taxicab permits. The hearing will be held at 3:00 p.m. on Wednesday, October 8, 2014 in the City Hall Annex Council Chambers located at 900 Bagby, Public Level. All interested appellants should attend.

City of Houston, Texas, Ordinance No. 2014-\_\_\_\_\_

**AN ORDINANCE RELATING TO THE ISSUANCE OF TAXICAB PERMITS; DELAYING THE 2015 TAXICAB PERMIT ISSUANCE PROCESS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, the Code of Ordinances provides for the City to accept and consider applications for the issuance of additional taxicab permits every three years on the basis of a mathematical determination of market demand for additional permits by comparing growth in population and airport trips since the last permit issuance year; and

**WHEREAS**, the last permit issuance year was 2011; and

**WHEREAS**, the 2014 taxicab permit computation and distribution process was commenced and resulted in a preliminary computation by the Director of the Administration and Regulatory Affairs Department ("ARA") recommending that a total of 205 additional permits be issued to various applicants; and

**WHEREAS**, as provided by the Code of Ordinances, persons opposed to the issuance of additional permits have appealed the issuance of the 205 permits that were recommended; and

**WHEREAS**, as provided by Chapter 46 of the Code of Ordinances, absent a founded appeal of any permit computation, the final computation must be published on or before November 1 of each permit year, and applications must be filed on or before December 1 of each permit year; and

**WHEREAS**, ARA is concerned, based on the findings of the City's expert in performing the Houston Taxi Study, that the existing taxicab permit computation process may not adequately reflect actual market demand and an existing need for additional permits to be issued in order to best accommodate the interests of the public; and

**WHEREAS**, the demand factors of the computation may additionally be skewed by the emergence of a new vehicle for hire platform in Houston since the last permit issuance period; and

**WHEREAS**, ARA is currently working to ascertain the number of taxicab permits that should be issued, by determining dispatch demand and studying additional relevant factors; and

**WHEREAS**, ARA is concerned that the distribution methodology established in the Code of Ordinances might inadvertently exclude new entrant entrepreneurs who wish to establish a full-service taxicab company that might better meet the needs of the local community by offering dispatch capabilities and 24-hour service; and

**WHEREAS**, ARA requests that City Council take action to delay the distribution of the 205 taxicab permits calculated to be issued in the 2015 taxicab distribution year;  
**NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

**Section 2.** That the City's Administration and Regulatory Affairs Department is hereby requested to conduct a review of the City Code provisions that control the issuance of additional taxicab permits and to make recommendations to the City Council for amendments that address the concerns expressed in the preamble of this Ordinance.

**Section 3.** That the 2014 - 2015 taxicab permit computation and distribution process, as heretofore commenced and currently in process pursuant to Division 2 of Article II of Chapter 46 of the Code of Ordinances, Houston, Texas, is hereby delayed until September 1, 2015, and no taxicab permit shall be issued on the basis thereof until after such time.

**Section 4.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets



of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 5.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

*mc*  
Prepared by Legal Dept.

TE: jmb 10/03/2014

*Tina Paez*  
Assistant City Attorney

Requested by Tina Paez, Director, Department of Administration and Regulatory Affairs

L.D. File No. 037140012001

## Chapter 46 VEHICLES FOR HIRE

### ARTICLE I. IN GENERAL

#### DIVISION 1. VEHICLES FOR HIRE GENERALLY

\* \* \*

##### **Sec. 46-9.4. Appearance of licensee.**

(a) It shall be the duty of every licensee to be hygienically clean, well groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while operating or in custody of a vehicle for hire.

(b) The term *suitably dressed* means the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments, except that a licensee operating a pedicab or jitney shall be permitted to wear a T-shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.

(c) Clothing that is not considered appropriate and is not permitted, when the licensee is operating a vehicle for hire includes: T-shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals. It is an affirmative defense to prosecution under this section that the licensee is a pedicab or jitney operator otherwise in compliance with the requirements articulated in this section.

(d) Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director.

\* \* \*

##### **Sec. 46-11.4. Vehicle removal.**

(a) The police department ~~shall~~may remove any vehicle from a public street or public place when probable cause exists to believe that the vehicle is being operated as a vehicle for hire without the required permit, certificate of registration, certification decal, or other authorization issued by the director and required pursuant to this chapter. A vehicle removed pursuant to this section shall be placed in a secured facility designated by the city.

(b) If a vehicle has been removed from a public street or public place without the consent of the owner or operator, he may request a hearing to determine whether or not probable cause existed for the removal of the vehicle. Hearings under this section shall be before a municipal court judge.

(c) A person who wishes to request a hearing hereunder shall deliver a written request for the hearing to the clerk of the municipal courts not later than the 14<sup>th</sup> business day after the date the vehicle was placed in a secured facility. A person who fails to deliver the request within the specified time period waives the right to the hearing.

(d) A written hearing request under this section must contain the following information:

- (1) The name, address, and telephone number of the owner and operator of the vehicle;
- (2) The date and the location from which the vehicle was removed;
- (3) The name of the police officer who authorized the removal of the vehicle; and
- (4) The name, address, and telephone number of the secured facility to which the vehicle was removed.

(e) Upon receipt of a complete and timely filed hearing request, the clerk of the municipal courts shall schedule a hearing to occur as soon as practicable; provided, however, all hearings conducted pursuant to this section shall be held within ten business days after the date the hearing request was received.

(f) The court shall notify the vehicle owner or operator and the police officer who authorized the removal of the vehicle of the date, time and place of the hearing. The sole issue to be determined in a hearing under this section is whether probable cause existed for the removal of the vehicle.

(g) The court shall make written findings of fact and conclusions of law regarding the issues in the hearing. If the court determines that probable cause existed for the removal of the vehicle, the owner or operator of the vehicle shall pay the costs of removing and storing the vehicle prior to release of the vehicle.

(h) If the court determines that probable cause did not exist for the removal and of the vehicle, the vehicle shall be ordered released without the payment of any costs for removing and storing the vehicle. If the vehicle's owner or operator paid removal and storage costs before the hearing and the court determines that probable cause did not exist for the removal and storing of the vehicle, the city shall fully reimburse the owner or operator.

(i) The provisions of this section shall be cumulative of all other enforcement powers granted by this chapter and available to the city.

\* \* \*

**Sec. 46-11.7. Preferences and soliciting of business prohibited.**

(a) It shall be unlawful for any person to seek or solicit a passenger or passengers for any vehicle for hire, other than a pedicab, whether or not the vehicle is identified as a vehicle for hire, at, in or near any passenger depot, hotel, airport, ship or ferry landing, bus stop or station, or upon any sidewalk or street or any other place in the city. It shall be unlawful for any person to call out "taxicab," "limousine," "auto for hire," "carriage," "bus," "baggage," "hotel," or any other words or gestures that could be construed as soliciting a passenger for hire. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00.

(b) It shall be unlawful for any cab starter, bell person, maitre d', or other person having the ability or authority to control the selection of vehicles for hire available for hire at any business premises to solicit a fee or other compensation or favor for the purpose of granting preference or priority rights to any vehicle for hire. The provisions of this section shall not be construed to prohibit the owner of a business premises that maintains a private off-street cabstand or limo stand area for the convenience of its patrons from entering into a written contract by which the owner receives compensation from one or more permittees in exchange for access to the premises' off-street cabstand or limo stand area. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00.

\* \* \*

**DIVISION 2. VEHICLE FOR HIRE DRIVER LICENSES**

\* \* \*

**ARTICLE II. TAXICABS**

**DIVISION 1. GENERALLY**

\* \* \*

**Sec. 46-21. Identification of vehicles generally.**

(a) A permittee or licensee shall not drive or cause or suffer to be driven or operate or cause to be operated a taxicab in the city unless the taxicab has signs on the front doors on each side of the taxicab stating the telephone number and the name or the assumed name under which the owner operates or the name of the partnership, copartnership, association, society or corporation under which the owner operates the taxicab, as is on file with the director. The name and numbers shall be not less than three inches in length and not less than five-sixteenths of one inch in width and shall be a solid color that contrasts with the background. The name and numbers on the front door of the taxicab shall be placed in a location approved by the director. The telephone number shall also be placed where plainly visible on the rear of the taxicab.

(b) A permittee shall not operate or cause or suffer or allow to be operated a taxicab in the city unless and until a certification decal number has been assigned by the director at the time the permit is issued under this article. The number shall remain in full force and effect for each permit so long as the permit remains valid. The number shall be displayed on the taxicab in ~~five~~four separate and plainly visible locations as follows: on the right of the trunk lid when viewed from the rear of the taxicab; on the left of the hood when viewed from the front of the taxicab; and one on each side of the taxicab immediately below the handles of the rear doors; ~~and on the roof of the taxicab.~~ If a taxicab has only one rear door, then the number for the side where there is no rear door shall be placed in an alternative location designated by the director. Each number on the roof of the taxicab shall be not less than twelve inches in length and not less than three inches in width and shall be a color prescribed by the director. In all other locations described in this subsection, each number shall be not less than three inches in length and not less than five-sixteenths of one inch in width.

\* \* \*

#### **Sec. 46-31. Rates prescribed.**

(a) Except for taxicabs dispatched through a mobile dispatch service, all taxicab permittees and licensees shall comply with and abide by the rates established in this section:

\* \* \*

- (3) *IAH flat rates.* Alternative flat rates shall be imposed for trips between George Bush Intercontinental Airport/Houston (IAH) and its geographic zones I through X, as follows:

| Zone | Daytime Trip—Flat Rate | Nighttime Trip—Flat Rate |
|------|------------------------|--------------------------|
| I    | \$ 45.00               | \$ 46.00                 |
| II   | 52.50                  | 53.50                    |
| III  | 60.00                  | 61.00                    |
| IV   | 65.00                  | 66.00                    |
| V    | 73.00                  | 74.00                    |
| VI   | 81.00                  | 82.00                    |
| VII  | 87.50                  | 88.50                    |
| VIII | 104.50                 | 105.50                   |
| IX   | 34.00                  | 35.00                    |
| X    | 41.00                  | 42.00                    |

Provided that the lesser of the applicable flat rate or the actual metered rate shall be charged. A copy of the zone map for IAH taxicab rates shall remain on file for public inspection in the office of the city secretary. The centers of the streets and geographic features noted thereon as boundary lines shall determine boundaries between adjacent zones. The foregoing zone rates are inclusive of ~~exclude the~~ airport use fees, which may be additionally imposed on metered or flat zone ~~fares but not on flat rate fares~~.

- (4) *HOU flat rates.* Alternative flat rates shall be imposed for trips between William P. Hobby Airport (HOU) and its geographic zones I through XI, as follows:

| Zone | Daytime Trip—Flat Rate | Nighttime Trip—Flat Rate |
|------|------------------------|--------------------------|
| I    | \$32.00                | \$33.00                  |
| II   | 26.00                  | 27.00                    |
| III  | 38.50                  | 39.50                    |
| IV   | 54.50                  | 55.50                    |
| V    | 61.50                  | 62.50                    |
| VI   | 70.00                  | 71.00                    |
| VII  | 80.50                  | 81.50                    |
| VIII | 71.00                  | 72.00                    |
| IX   | 37.50                  | 38.50                    |
| X    | 86.00                  | 87.00                    |
| XI   | 79.50                  | 80.50                    |

Provided that the lesser of the applicable flat rate or the actual metered rate shall be charged. A copy of the zone map for HOU taxicab rates shall remain on file for public inspection in the office of the city secretary. The centers of the streets and geographic features noted thereon as boundary lines shall determine boundaries between adjacent zones. The foregoing zone rates are inclusive of ~~exclude the~~ airport use fees, which may be additionally imposed on metered or zone flat rate ~~fares~~.

\* \* \*

**Secs. 46-38, 46-39. Reserved.**

**Sec. 46-40. — Preferences and soliciting of business prohibited.**

~~—— (a) It shall be unlawful for any person to seek or solicit a passenger or passengers for any vehicle for hire, whether or not the vehicle is identified as a taxicab, at, in or near any passenger depot, hotel, airport, ship or ferry landing, bus stop or station, or upon any sidewalk or street or any other place in the city. It shall be unlawful for any person to call out "taxicab," "limousine," "auto for hire," "carriage," "bus," "baggage," "hotel," or any other words or gestures that could be construed as soliciting a passenger for hire. Violators of this section, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00.~~

~~—— (b) It shall be unlawful for any cab starter, bell person, maitre d', or other person having the ability or authority to control the selection of taxicabs available for hire at any business premises to solicit a fee or other compensation or favor for the purpose of granting preference or priority rights to any taxi. The provisions of this section shall not be construed to prohibit the owner of a business premises that maintains a private off-street cabstand area for the convenience of its patrons from entering into a written contract by which the owner receives compensation from one or more permittees in exchange for access to the premises' off street cabstand area.~~

**Secs. 46-41—46-60. Reserved.**

DIVISION 2. VEHICLE PERMIT

\* \* \*

DIVISION 3. RESERVED

**Secs. 46-86—46-110. Reserved.**

DIVISION 4. MISCELLANEOUS LICENSEE REQUIREMENTS

**Secs. 46-111. — Licensee appearance.**

~~—— (a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while a taxicab is in his or her custody.~~

~~—— (b) Subject to the limitations of subsection (d) below, the term *suitably dressed* means the licensee, if male, shall wear trousers or slacks, a shirt, with or without a tie, shoes, and, if desired, appropriate outer garments.~~

~~—— (c) Subject to the limitations of subsection (d) below, the term *suitably dressed* means the licensee, if female, shall wear a skirt, trousers, or slacks, a shirt or a blouse, shoes, and, if desired, appropriate outer garments.~~

~~—— (d) Clothing that is not considered appropriate and is not permitted, whether the licensee is male or female, includes: (1) T-shirts, underwear, tank tops, body shirts, swim wear, jogging suits, or similar types of attire when worn as an outer garment; or (2) any form of shorts.~~

**Sec. 46-112. Reserved.**

\* \* \*

## ARTICLE III. PEDICABS

### DIVISION 1. GENERALLY

\* \* \*

### DIVISION 2. PERMITS

\* \* \*

### DIVISION 3. PEDICAB OPERATING REQUIREMENTS

\* \* \*

**Sec. 46-169. Licensee appearanceReserved.**

~~—— (a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with the requirements of this section at all times while operating a pedicab for hire.~~

~~—— (b) The term *suitably dressed* means wearing appropriate outer garments, including, at minimum, shorts, slacks or trousers, a shirt with collar or blouse with or without a tie, and shoes. A licensee operating a pedicab shall be permitted to wear a T-shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.~~

~~—— (c) Clothing that is not considered appropriate and is not permitted when the licensee is in charge of a pedicab includes: underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, athletic shorts or trunks (jogging or bathing), or sandals.~~

\* \* \*



## **ARTICLE IV. SIGHTSEEING, CHARTER AND CHAUFFEURED LIMOUSINE SERVICES**

### **DIVISION 1. GENERALLY**

\* \* \*

### **DIVISION 2. SIGHTSEEING AND CHARTER SERVICES**

\* \* \*

### **DIVISION 3. CHAUFFEURED LIMOUSINE SERVICE**

\* \* \*

#### **Sec. 46-239. License; other driver requirements.**

(a) A person shall not operate a limousine upon the streets of the city unless he holds a current and valid license.

(b) At all times while in service, whether physically operating a limousine, assisting passengers, or performing other duties attendant to the provision of limousine service, it shall be the duty of the licensee to conspicuously display his license upon his upper chest. The license may be attached to the driver's outer shirt or jacket pocket or lapel, suspended from a necklace or displayed in an equivalent manner on the driver's outer garments. In any prosecution under this subsection, it shall be presumed that the driver was not in possession of a current and valid license if the license card was not conspicuously displayed as aforesaid.

(c) A licensee shall not drive for more than 12 hours in any consecutive 24-hour period and a permittee shall not permit or cause a licensee to drive a chauffeured limousine more than 12 hours in any consecutive 24-hour period.

(d) Each licensee shall, while operating a permittee's limousine, wear business attire (a dress shirt and matching slacks, dress, or skirt) or a chauffeur's uniform with a dress shirt or blouse and, for men, an appropriately tied neck tie. Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director.

(~~de~~) It is an affirmative defense to prosecution under this section that the person driving a limousine had been engaged by the permittee to perform repairs or servicing of the vehicle, and that the vehicle was not in service at the time of the alleged offense.

\* \* \*

## **ARTICLE V. SCHOOL VEHICLES**

\* \* \*

## ARTICLE VI. JITNEYS

### DIVISION 1. GENERALLY

\* \* \*

### DIVISION 2. LICENSES AND PERMITS

#### **Sec. 46-331. Permit required.**

(a) It shall be unlawful for any person to operate a jitney service unless a permit has been issued for the operation of the jitney service under this article.

(b) Each applicant for a permit required by this division must:

- (1) Have no conviction of an offense stated in subsection (c) of section 1-10 of this Code;
- (2) Identify the make, model, manufacturer's rated seating capacity and vehicle identification number for each vehicle the applicant desires to receive a permit for and operate as a jitney;
- (3) Be 18 years of age or older, if a natural person;
- (4) Be able to read and write the English language, if a natural person;
- (5) Provide evidence that the applicant has a place of business within the metropolitan area from which the applicant's ~~sightseeing or charter~~ jitney service will be operated and that such use of the location is in compliance with any applicable deed restrictions;
- (6) Hold a current and valid class A, B or C Texas driver license;
- (7) Not have had a license, permit or franchise issued under any article of this chapter denied, revoked or not renewed for cause by the city within the one-year period preceding the date of filing of the application; and
- (8) Provide any other information reasonably requested by the director for administration of this article.

\* \* \*

### DIVISION 3. OPERATING REQUIREMENTS

#### **Sec. 46-351. Licensee appearance and conduct.**

~~(a) It shall be the duty of every licensee to be hygienically clean, well groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while a jitney is in his or her custody.~~

~~—— (b) The term *suitably dressed* means the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments.~~

~~—— (c) Clothing that is not considered appropriate and is not permitted, when the licensee is in charge of a jitney includes: T-shirts, underwear (as an outer garment), tank tops, body-shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals.~~

~~—— (d) No licensee shall permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, nor shall a licensee permit any passenger to stand in such a position that the licensee's vision forward or to the right front or left is blocked.~~

#### **Sec. 46-352. Jitney equipment.**

\* \* \*

(d) Additionally, each jitney shall:

- (1) Be equipped with a light-equipped roof sign, which shall have the word "jitney" visible from the front and rear in red letters at least three inches tall with a brush stroke of at least 5/16 inch upon a white background and shall be illuminated at all times while the jitney is in service;
- (2) Have no taximeter;
- (3) Have the word "jitney" painted on each side of the vehicle in black in letters at least six inches tall with a brush stroke width of at least one inch;
- (4) Have the following signage in letters not less than three inches in length nor less than 5/16 of an inch in brush stroke and of contrasting color to the background:
  - a. The name and telephone number of the permittee and rate structure on both front doors;
  - b. The telephone number of the permittee on the rear deck or trunk lid;

- c. The permit number on the right side of the trunk or rear deck, the right side of the hood, and below the rear door handle on each side of the vehicle; and
  - d. The street names or route name below the permit number on each side of the vehicle or on the front of the vehicle. In the event one jitney services multiple routes, a changeable electronic or analog sign shall indicate the route the vehicle is currently servicing. The current route and rate structure for each must be posted in a conspicuous manner in the interior of the vehicle so as to be clearly visible and understood by all passengers.
- (5) Have a dashboard-mounted holder of a type approved by the director in which shall be mounted the operator's license, a photograph of the operator and one set of rate and route cards approved by the director under section 46-340 of this Code; and
- (6) Have a radio, mobile telephone or other means of two-way communication that may be used to request assistance in the event of an emergency.

The information required in items (1), (3) and (4) above shall be painted upon the vehicle, provided that the director may allow the street name or route name information only to be posted upon a magnetic sign or other removable sign of durable materials.

\* \* \*

## ARTICLE VII. LOW-SPEED SHUTTLES

### DIVISION 1. GENERALLY

\* \* \*

### DIVISION 2. PERMITS AND LICENSES

\* \* \*

### DIVISION 3. LOW-SPEED SHUTTLE OPERATING REQUIREMENTS

\* \* \*

#### **Sec. 46-422. Licensee ~~appearance and conduct.~~**

~~(a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while operating a low-speed shuttle for hire.~~

~~—— (b) The term *suitably dressed* means the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments.~~

~~—— (c) Clothing that is not considered appropriate and is not permitted, when the licensee is in charge of a low speed shuttle includes: T shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals; provided however, a licensee operating a low speed shuttle that is not equipped with an interior air conditioning system shall be permitted to wear a T shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.~~

~~—— (d) No licensee shall permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, nor shall a licensee permit any passenger to stand in such a position that the licensee's vision forward or to the side is blocked.~~

\* \* \*

## CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 10/7/2014

ALL

HHS-Department of State Health Services (DSHS) for the Women, Infant and Children (WIC) Program

Agenda Item#: 16.

### **Summary:**

ORDINANCE approving and authorizing the Director of the City of Houston Department of Health and Human Services to accept grant funds from the **TEXAS DEPARTMENT OF STATE HEALTH SERVICES** for the Women, Infant and Children Program; declaring the City's eligibility for such grant; authorizing the Director of the Health and Human Services Department to expend the grant funds and to apply for and accept all subsequent awards, if any, pertaining to the grant

### **Background:**

The Houston Department of Health and Human Services (HDHHS) requests City Council's approval of an ordinance authorizing the Director of the Houston Department of Health and Human Services (HDHHS) to accept and expend grant funds from the Department of State Health Services (DSHS) for the Women, Infant and Children (WIC) Program. The proposed budget period is from October 1, 2014 through September 30, 2015. The initial funding amount is \$11,358,266.00 and may be adjusted at any time during the budget period.

HDHHS also requests City Council to authorize the Mayor to execute the original contract and authorize the Director or his designee to act as the City's representative with the authority to apply for, accept and expend all subsequent supplemental awards, if any.

Under this grant, HDHHS will administer the DSHS Special Supplemental Nutrition Program for Women, Infant, and Children which provide supplemental food instruments, nutrition education, and counseling to enhance good health at no cost to low income pregnant and post partum women, infants and children identified to be at nutritional risk.

The funding will be used to continue special projects approved by DSHS which include breastfeeding peer counseling, nutrition education, obesity, lactation services and clinical lactation practicum, and other goods and services allowed by the grant.

This grant will allow HDHHS to serve approximately 72,000 WIC participants per month. Additionally, immunization screenings are provided to all WIC clients in 14 WIC sites.

### **Prior Council Action:**

10-15-2013; 2013-0944

### **Amount of Funding:**

\$11,358,266.00 - Federal State Local - Pass Through Fund (5030)

### **Source of Funding:**

Grant Fund


### **Contact Information:**

Kathy Barton Telephone: 832-393-5045 ; 713-826-5801

### **ATTACHMENTS:**

| Description | Type               |
|-------------|--------------------|
| WIC RCA     | Signed Cover sheet |



|   |  |   |                            |                             |
|---|--|---|----------------------------|-----------------------------|
| <b>SUBJECT:</b> Approval of an ordinance authorizing the Director of the Houston Department of Health and Human Services (HDHHS) to accept and expend grant funds from the Department of State Health Services (DSHS) for the Women, Infant and Children (WIC) Program  |  | <b>Category #</b>   | <b>Page 1 of 1</b>         | <b>Agenda Item #</b>        |
| <b>FROM (Department or other point of origin):</b><br>Stephen L. Williams, M.Ed., M.P.A.<br>Director-Houston Department of Health and Human Services  |  | <b>Origination Date</b><br>09/25/2014   |                            | <b>Agenda Date</b>          |
| <b>DIRECTOR'S SIGNATURE:</b>   |  | <b>Council District affected:</b><br>ALL  |                            |                             |
| <b>For additional information contact:</b> Kathy Barton<br>Telephone: 832-393-5045 ; 713-826-5801   |  | <b>Date and identification of prior authorizing Council action:</b> 10-15-2013; 2013-0944 |                            |                             |
| <b>RECOMMENDATION:</b> (Summary) Approval of an ordinance authorizing the Director of the Houston Department of Health and Human Services (HDHHS) to accept and expend grant funds from the Department of State Health Services (DSHS) for the Women, Infant and Children (WIC) Program   |  |   |                            |                             |
| <b>Amount of Funding:</b> \$11,358,266.00 Initial Award<br>Federal State Local – Pass Through Fund (5030)   |  |   | <b>Finance Department:</b> |                             |
| <b>SOURCE OF FUNDING:</b> [ ] General Fund [ X ] Grant Fund [ ] Enterprise Fund [ ] Other ( Specify )   |  |   |                            |                             |
| <b>SPECIFIC EXPLANATION:</b> <p>The Houston Department of Health and Human Services (HDHHS) requests City Council's approval of an ordinance authorizing the Director of the Houston Department of Health and Human Services (HDHHS) to accept and expend grant funds from the Department of State Health Services (DSHS) for the Women, Infant and Children (WIC) Program. The proposed budget period is from October 1, 2014 through September 30, 2015. The initial funding amount is \$11,358,266.00 and may be adjusted at any time during the budget period.</p> <p>HDHHS also requests City Council to authorize the Mayor to execute the original contract and authorize the Director or his designee to act as the City's representative with the authority to apply for, accept and expend all subsequent supplemental awards, if any.</p> <p>Under this grant, HDHHS will administer the DSHS Special Supplemental Nutrition Program for Women, Infant, and Children which provide supplemental food instruments, nutrition education, and counseling to enhance good health at no cost to low income pregnant and post partum women, infants and children identified to be at nutritional risk.</p> <p>The funding will be used to continue special projects approved by DSHS which include breastfeeding peer counseling, nutrition education, obesity, lactation services and clinical lactation practicum, and other goods and services allowed by the grant.</p> <p>This grant will allow HDHHS to serve approximately 72,000 WIC participants per month. Additionally, immunization screenings are provided to all WIC clients in 14 WIC sites.</p> <p>cc: Finance Department<br/>Legal Department<br/>Agenda Director</p> |  |   |                            |                             |
| <b>REQUIRED AUTHORIZATION</b>   |  |   |                            |                             |
| <b>Finance Department</b>   |  | <b>Other Authorization:</b>   |                            | <b>Other Authorization:</b> |

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

Item Creation Date: 8/19/2014

HHS-Approp \$1,959,752 to Health Dept FY 2015 budget

Agenda Item#: 17.

**Summary:**

ORDINANCE appropriating 1) \$126,500.00 out of Health Special Revenue Fund Fund Balance, 2) \$89,900.00 out of Essential Public Health Services Fund Fund Balance, and 3) \$1,743,352 out of Special Waste Fund Fund Balance, for the Houston Department of Health and Human Services' Capital Expenditures for Vehicles and Construction Site Work Services in FY2015

**Background:**

The Houston Department of Health and Human Services (HDHHS) requests City Council to approve an ordinance authorizing the appropriation of \$1,959,752 from the appropriate funds balances to the Health Department's FY 2015 budget.

In FY 2014, HDHHS encumbered a total of \$559,752.00 for the purchase of vehicles, however, the vehicles were not received in FY 2014 and are anticipated to be received in FY 2015. Additionally, HDHHS encumbered \$1,400,000 for the construction of a pavilion at HDHHS' Park Place facility. There were no expenditures for this project in FY 2014. Therefore, HDHHS requests appropriations in the the following amounts to the following funds to cover the already encumbered funds:

\$ 126,500 - Health Special Revenue Fund (2002)  
\$ 89,900 - Essential Public Health Services Fund (2010)  
\$1,743,352 - Special Waste Fund (2423)

**Amount of Funding:**

Total Appropriation: \$1,959,752.00  
\$ 126,500 - Health Special Revenue Fund (2002)  
\$ 89,900 - Essential Public Health Services Fund (2010)  
\$1,743,352 - Special Waste Fund (2423)

**Source of Funding:**

Other (Specify)

Health Special Revenue Fund (2002); Essential Public Health Services Fund (2010); Special Waste Fund (2423)


**Contact Information:**

Kathy Barton  
Telephone: 832-393-5045; 713-826-5801

**ATTACHMENTS:**

| Description                  | Type            |
|------------------------------|-----------------|
| ▢ HHS-Approp \$1,959,752 RCA | Backup Material |



| <b>SUBJECT:</b> An ordinance authorizing the appropriation of \$1,959,752 from the appropriate fund balances to the Health Department's Fiscal Year (FY) 2015 budget  |         | <b>Category #</b> 9   | <b>Page</b> 1 of 8         | <b>Agenda Item #</b>        |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
|---|---------|---|----------------------------|-----------------------------|------|---------|-------------|----------------------|------|--------|----------------------|--------------|------|--------|----------------------|-------------|------|--------|----------------------------|----------------|------|--------|----------------------|--------------|
| <b>FROM (Department or other point of origin):</b><br>Houston Department of Health and Human Services   |         | <b>Origination Date</b><br>8/19/14                                      |                            | <b>Agenda Date</b>          |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>DIRECTOR'S SIGNATURE:</b>   |         | <b>Council District affected:</b>                                       |                            |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>For additional information contact:</b> Kathy Barton<br>Telephone: 832-393-5045 ; 713-826-5801   |         | <b>Date and identification of prior authorizing Council action:</b> N/A |                            |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>RECOMMENDATION: (Summary)</b><br>An ordinance authorizing the appropriation of \$1,959,752 from the appropriate fund balances to the Health Department's FY 2015 budget  |         |   |                            |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>Amount of Funding:</b> <b>Total Appropriation: \$1,959,752.00</b><br>\$126,500    - Health Special Revenue Fund (2002)<br>\$89,900     - Essential Public Health Services Fund (2010)<br>\$1,743,352 - Special Waste Fund (2423)   |         |   | <b>Finance Department:</b> |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>SOURCE OF FUNDING:</b> <input type="checkbox"/> General Fund <input type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund <input checked="" type="checkbox"/> Other ( Specify ) –<br>Donated Funds   |         |   |                            |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>SPECIFIC EXPLANATION:</b><br><br>The Houston Department of Health and Human Services (HDHHS) requests City Council to approve an ordinance authorizing the appropriation of \$1,959,752 from the appropriate fund balances to the Health Department's FY 2015 budget.<br><br>In FY 2014, HDHHS encumbered a total of \$559,752.00 for the purchase of vehicles, however, the vehicles were not received in FY 2014 and are anticipated to be received in FY 2015. Additionally, HDHHS encumbered \$1,400,000 for the construction of a pavilion at HDHHS' Park Place facility. There were no expenditures for this project in FY 2014. Therefore, HDHHS requests appropriations in the following amounts to the following funds to cover the already encumbered funds: |         |   |                            |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Fund</th> <th style="text-align: left;">Account</th> <th style="text-align: left;">Description</th> <th style="text-align: left;">Budget Appropriation</th> </tr> </thead> <tbody> <tr> <td>2002</td> <td>560220</td> <td>Cap. Exp. - Vehicles</td> <td>\$126,500.00</td> </tr> <tr> <td>2010</td> <td>560220</td> <td>Cap. Exp. - Vehicles</td> <td>\$89,900.00</td> </tr> <tr> <td>2423</td> <td>520126</td> <td>Constr. Site Work Services</td> <td>\$1,400,000.00</td> </tr> <tr> <td>2423</td> <td>560220</td> <td>Cap. Exp. - Vehicles</td> <td>\$343,352.00</td> </tr> </tbody> </table>   |         |   |                            |                             | Fund | Account | Description | Budget Appropriation | 2002 | 560220 | Cap. Exp. - Vehicles | \$126,500.00 | 2010 | 560220 | Cap. Exp. - Vehicles | \$89,900.00 | 2423 | 520126 | Constr. Site Work Services | \$1,400,000.00 | 2423 | 560220 | Cap. Exp. - Vehicles | \$343,352.00 |
| Fund  | Account | Description   | Budget Appropriation       |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| 2002  | 560220  | Cap. Exp. - Vehicles  | \$126,500.00               |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| 2010  | 560220  | Cap. Exp. - Vehicles  | \$89,900.00                |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| 2423  | 520126  | Constr. Site Work Services  | \$1,400,000.00             |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| 2423  | 560220  | Cap. Exp. - Vehicles  | \$343,352.00               |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| cc: Finance Department<br>Legal Department<br>Agenda Director   |         |   |                            |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>REQUIRED AUTHORIZATION</b>   |         |   |                            |                             |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |
| <b>Finance Department</b>   |         | <b>Other Authorization:</b>   |                            | <b>Other Authorization:</b> |      |         |             |                      |      |        |                      |              |      |        |                      |             |      |        |                            |                |      |        |                      |              |

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

**HPD - FY14 Motor Carrier Safety Assistance Program High Priority Grant**

Agenda Item#: 18.

**Summary:**

ORDINANCE approving and authorizing submission of an application for and acceptance of a U.S. Department of Transportation FY14 Federal Motor Carrier Safety Assistance Program High Priority Grant; declaring the City's eligibility for such grant; authorizing the Chief of the Houston Police Department to act as the City's representative in the application process, to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program

**Background:**

**U.S. Department of Transportation FY14 Motor Carrier Safety Assistance Program (MCSAP) High Priority Grant**

The Houston Police Department has been awarded the U.S. Department of Transportation FY14 Motor Carrier Safety Assistance Program High Priority Grant in the amount of \$243,504. The program requires a city match of \$50,002 and an in-kind match of \$10,874 for a total of \$304,380.

This grant will allow the Houston Police Department Truck Enforcement Unit to expand the key components of their work, which includes: inspection of commercial motor vehicles, hazardous material motor vehicles and passenger-carrying of commercial motor vehicles; traffic enforcement to regulate speed, seat belt usage and aggressive driving; education of both commercial motor vehicle drivers and owners of safe driving habits; education of citizens on the dangers of unsafe driving behaviors around commercial motor vehicles; and safety initiatives involving marked and unmarked units around work zones and targeted roadways. The funding will be used towards overtime for personnel in order to reduce the number of commercial motor vehicle (CMV) at-fault crashes through a combined effort of inspecting, enforcing and educating the commercial motor vehicle industry.

**Amount of Funding:**

**Amount of Funding:**

|   |                           |                            |
|---|---------------------------|----------------------------|
| <b>Federal: (USDOT) Fund (5000)</b>         |                           | <b>\$243,504.00</b>        |
| <b>HPD: General Fund (Cash Match)(1000)</b> | <b>\$50,002.00</b>        |                            |
| <b>In-Kind Match:</b>                       | <b><u>\$10,874.00</u></b> | <b><u>\$ 60,876.00</u></b> |
| <b>Total Project:</b>                       |                           | <b><u>\$304,380.00</u></b> |

**Source of Funding:**

General Fund, Grant Fund

**Contact Information:**

Joseph A. Fenninger,  
CFO and Deputy Director 713-308-1770

Clifton Journet, III  
Senior Staff Analyst 713-308-1779

**ATTACHMENTS:**

| Description   | Type               |
|---|--------------------|
|  FY14 MCSAPGrant_RCA | Signed Cover sheet |



TO: Mayor via City Secretary

## REQUEST FOR COUNCIL ACTION

|  |  |   |                        |                             |
|--|--|---|------------------------|-----------------------------|
| <b>SUBJECT:</b><br>Approval of an ordinance authorizing the Houston Police Department to accept funding for the FY14 Motor Carrier Safety Assistance Program (MCSAP) High Priority Grant   |  | <b>Category</b><br>#  | <b>Page</b><br>1 of 1  | <b>Agenda Item</b><br>#     |
| <b>FROM: (Department or other point of origin):</b><br>Houston Police Department   |  | <b>Origination Date</b>   |                        | <b>Agenda Date</b>          |
| <b>DIRECTOR'S SIGNATURE:</b><br>Charles A. McClelland, Jr., Chief of Police  |  | <b>Council Districts affected:</b><br>All                           |                        |                             |
| <b>For additional information contact:</b><br>Joseph A. Fenninger,<br>CFO and Deputy Director 713-308-1770   |  | <b>Date and identification of prior authorizing Council Action:</b> |                        |                             |
| <b>RECOMMENDATION: (Summary)</b><br>The Houston Police Department recommends City Council approve an ordinance authorizing the acceptance of the grant funds for the U.S. Department of Transportation FY14 Motor Carrier Safety Assistance Program (MCSAP) High Priority Grant.   |  |   |                        |                             |
| <b>Amount of Funding:</b>  |  |   | <b>Finance Budget:</b> |                             |
| Federal: (USDOT) Fund (5000)   |  |   | \$243,504.00           |                             |
| HPD: General Fund Cash Match (1000)  |  |   | \$50,002.00            |                             |
| In-Kind Match  |  |   | \$10,874.00            |                             |
| Total Project  |  |   | \$60,876.00            |                             |
|  |  |   | <u>\$304,380.00</u>    |                             |
| <b>SOURCE OF FUNDING:</b> <input checked="" type="checkbox"/> General Fund <input checked="" type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund <input type="checkbox"/> Other (Specify)  |  |   |                        |                             |
| <b>SPECIFIC EXPLANATION:</b>   |  |   |                        |                             |
| <b><u>U.S. Department of Transportation FY14 Motor Carrier Safety Assistance Program (MCSAP) High Priority Grant</u></b>   |  |   |                        |                             |
| <p>The Houston Police Department has been awarded the U.S. Department of Transportation FY14 Motor Carrier Safety Assistance Program High Priority Grant in the amount of \$243,504. The program requires a city match of \$50,002 and an in-kind match of \$10,874 for a total of \$304,380.</p> <p>This grant will allow the Houston Police Department Truck Enforcement Unit to expand the key components of their work, which includes: inspection of commercial motor vehicles, hazardous material motor vehicles and passenger-carrying of commercial motor vehicles; traffic enforcement to regulate speed, seat belt usage and aggressive driving; education of both commercial motor vehicle drivers and owners of safe driving habits; education of citizens on the dangers of unsafe driving behaviors around commercial motor vehicles; and safety initiatives involving marked and unmarked units around work zones and targeted roadways. The funding will be used towards overtime for personnel in order to reduce the number of commercial motor vehicle (CMV) at-fault crashes through a combined effort of inspecting, enforcing and educating the commercial motor vehicle industry.</p> |  |   |                        |                             |
| <b>REQUIRED AUTHORIZATION</b>  |  |   |                        |                             |
| <b>Finance Budget:</b>   |  | <b>Other Authorization:</b>   |                        | <b>Other Authorization:</b> |



**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014  
District C

Item Creation Date: 9/23/2014

25RB164-Purch and Sale - Frank Joseph Cutaia, Albert F. Cutaia, and Brent Anthony Garza

Agenda Item#: 19.

**Summary:**

ORDINANCE appropriating \$925,000.00 out of Parks & Recreation Dedication Fund for Land Purchase and Title Services, for and in connection with the purchase of Parcel BY15-002, consisting of 12,500 square feet of land (located at 924 West Dallas Street, Houston, Harris County, Texas), owners being Frank Joseph Cutaia, Albert F. Cutaia and Brent Anthony Garza - **DISTRICT C - COHEN**

**Background:**

**RECOMENDATION:** Approve a Purchase and Sale Agreement between Frank Joseph Cutaia, Albert F. Cutaia, and Brent Anthony Garza (Sellers), and the City of Houston (Purchaser), for the purchase of 12,500 square feet of land located at 924 West Dallas Street, Houston, Harris County, Texas for the Houston Parks and Recreational Department and appropriate funds.

**SPECIFIC EXPLANATION:** The General Services Department recommends approval of a Purchase and Sale Agreement between Frank Joseph Cutaia, Albert F. Cutaia, and Brent Anthony Garza (Sellers) and the City of Houston (Purchaser), for the purchase of 12,500 square feet of land located at 924 West Dallas Street, for a purchase price of \$925,000.00 plus additional acquisition expenses for the Houston Parks and Recreation Department (HPARD).

HPARD desires to purchase this property for future development, to conserve green space and increase recreational opportunities in this rapidly developing area.

The following is a breakdown of expected costs:

|                     |                         |
|---------------------|-------------------------|
| \$925,000.00        | Purchase Price          |
| \$4,000.00          | Environmental Costs     |
| <u>\$200.00</u>     | Estimated Closing Costs |
| <b>\$929,200.00</b> | <b>Estimated Total</b>  |

SM:HB:JLN:npb

xc: Marta Crinejo, Jacquelyn Nisby, Anna Russell, Lisa Johnson & Luci Correa

**Amount of Funding:**

**Amount and Source of Funding:** \$929,200.00  
Parks & Recreation Dedication Fund (4035)

**Source of Funding:**

Other (Specify)

Parks & Recreation Dedication Fund (4035)

**Contact Information:**




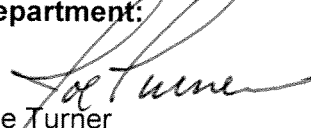
**For additional information contact:**

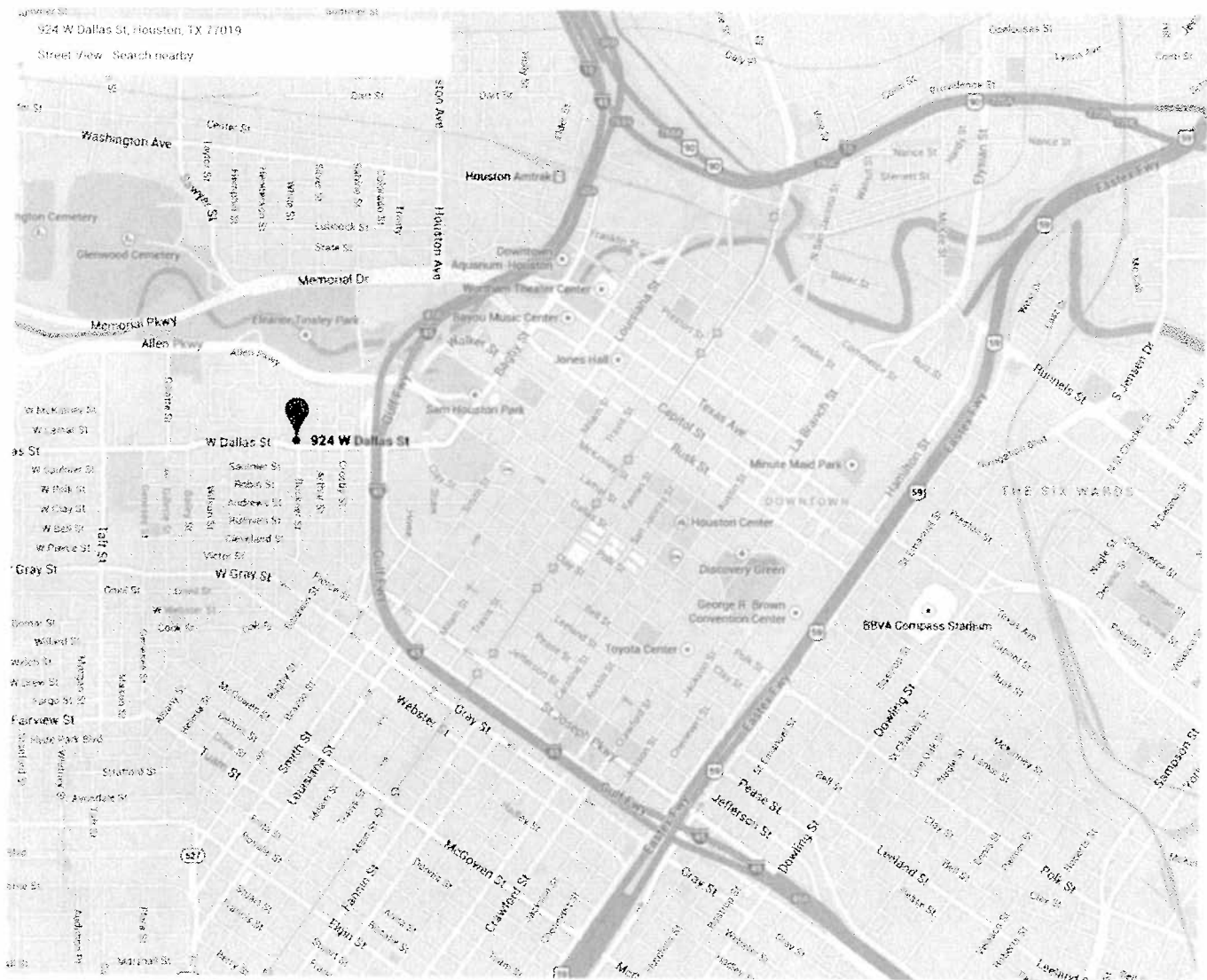
Jacquelyn L. Nisby  
Phone: (832) 393-8023

**ATTACHMENTS:**

| Description   | Type               |
|---|--------------------|
| <input type="checkbox"/> Approved RCA - PSA for 924 West Dallas St. | Signed Cover sheet |
| <input type="checkbox"/> Map for 924 West Dallas St.                | Backup Material    |
| <input type="checkbox"/> RCA Summary - PSA for 924 West Dallas St.  | Backup Material    |

|   |                             |
|---|-----------------------------|
| <div data-bbox="113 109 146 147"></div> <div data-bbox="178 109 860 157">Fund Reservation Form - 924 West Dallas St.</div>  | Financial Information       |
| <div data-bbox="113 157 146 199"></div> <div data-bbox="178 157 860 262">25RB164-Purch and Sale - Frank Joseph Cutaia, Albert F. Cutaia, and Brent Anthony Garza - Ordinance - revised - USE THIS VERSION</div> | Ordinance/Resolution/Motion |
| <div data-bbox="113 262 146 304"></div> <div data-bbox="178 262 860 304">Approved PSA for 924 West Dallas St.</div>   | Contract/Exhibit            |
| <div data-bbox="113 304 146 346"></div> <div data-bbox="178 304 860 367">25RB164-Purch and Sale - Frank Joseph Cutaia, Albert F. Cutaia, and Brent Anthony Garza - Ex A</div>                                   | Contract/Exhibit            |

|  |  |                        |                    |              |                |            |                     |          |                         |                     |                        |
|--|--|------------------------|--------------------|--------------|----------------|------------|---------------------|----------|-------------------------|---------------------|------------------------|
| <b>SUBJECT:</b> Purchase and Sale Agreement between Frank Joseph Cutaia, Albert F. Cutaia, and Brent Anthony Garza (Sellers) and the City of Houston (Purchaser) and Appropriation of Funds for the purchase of 12,500 square feet of land located at 924 West Dallas Street, Houston, Harris County, Texas for the Houston Parks and Recreation Department.<br>WBS: F-000513-0014-2   |  | <b>Page</b><br>1 of 1  | <b>Agenda Item</b> |              |                |            |                     |          |                         |                     |                        |
| <b>FROM (Department or other point of origin):</b><br>General Services Department  | <b>Origination Date</b>  | <b>Agenda Date</b>     |                    |              |                |            |                     |          |                         |                     |                        |
| <b>DIRECTOR'S SIGNATURE:</b><br>Scott Minnix    | <b>Council District affected:</b> C  |                        |                    |              |                |            |                     |          |                         |                     |                        |
| <b>For additional information contact:</b><br>Jacquelyn L. Nisby  Phone: 832-393-8023   | <b>Date and identification of prior authorizing Council action:</b>  |                        |                    |              |                |            |                     |          |                         |                     |                        |
| <b>RECOMMENDATION:</b> Approve a Purchase and Sale Agreement between Frank Joseph Cutaia, Albert F. Cutaia, and Brent Anthony Garza (Sellers), and the City of Houston (Purchaser) for the purchase of 12,500 square feet of land located at 924 West Dallas Street, Houston, Harris County, Texas for the Houston Parks and Recreation Department, and appropriate funds.   |  |                        |                    |              |                |            |                     |          |                         |                     |                        |
| <b>Amount and Source Of Funding:</b><br><b>\$929,200.00</b> Parks & Recreation Dedication Fund (4035)  |  | <b>Finance Budget:</b> |                    |              |                |            |                     |          |                         |                     |                        |
| <p><b>SPECIFIC EXPLANATION:</b> The General Services Department recommends approval of a Purchase and Sale Agreement between Frank Joseph Cutaia, Albert F Cutaia, and Brent Anthony Garza (Sellers) and the City of Houston (Purchaser), for the purchase of 12,500 square feet of land located at 924 West Dallas Street, for a purchase price of \$925,000.00 plus additional acquisition expenses for the Houston Parks and Recreation Department (HPARD).</p> <p>HPARD desires to purchase this property for future development, to conserve green space and increase recreational opportunities in this rapidly developing area.</p> <p>The following is a breakdown of expected costs:</p> <table> <tr> <td>\$925,000.00</td> <td>Purchase Price</td> </tr> <tr> <td>\$4,000.00</td> <td>Environmental Costs</td> </tr> <tr> <td>\$200.00</td> <td>Estimated Closing Costs</td> </tr> <tr> <td><b>\$929,200.00</b></td> <td><b>Estimated Total</b></td> </tr> </table> <p>SM:HB:JLN:RB:npb<br/> xc: Marta Crinejo, Jacquelyn L. Nisby, Anna Russell, Lisa Johnson &amp; Luci Correa</p> |  |                        |                    | \$925,000.00 | Purchase Price | \$4,000.00 | Environmental Costs | \$200.00 | Estimated Closing Costs | <b>\$929,200.00</b> | <b>Estimated Total</b> |
| \$925,000.00   | Purchase Price   |                        |                    |              |                |            |                     |          |                         |                     |                        |
| \$4,000.00   | Environmental Costs  |                        |                    |              |                |            |                     |          |                         |                     |                        |
| \$200.00   | Estimated Closing Costs  |                        |                    |              |                |            |                     |          |                         |                     |                        |
| <b>\$929,200.00</b>  | <b>Estimated Total</b>   |                        |                    |              |                |            |                     |          |                         |                     |                        |
| <b>REQUIRED AUTHORIZATION</b>  |  | CUIC ID# 25RB164       |                    |              |                |            |                     |          |                         |                     |                        |
| <b>General Services Department:</b><br><br>Humberto Bautista, P.E.<br>Assistant Director   | <b>Houston Parks and Recreation Department:</b><br><br>Joe Turner<br>Director |                        |                    |              |                |            |                     |          |                         |                     |                        |



**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014  
District I

Item Creation Date: 9/23/2014

25PARK239-Hermann Square Park-F-000715-0001-4-Times Construction, Inc.

Agenda Item#: 20.

**Summary:**

ORDINANCE appropriating \$60,123.00 out of Parks & Recreation Dedication Fund as an additional appropriation; approving first amendment to construction contract between the City of Houston and **TIMES CONSTRUCTION, INC** for Hermann Square Park (Approved by Ordinance 2014-0248) - **DISTRICT I - GALLEGOS**

**Background:**

**SPECIFIC EXPLANATION:** The General Services Department recommends that City Council approve a First Amendment to the construction contract with Times Construction, Inc. to increase the director's authority to approve Change Orders up to 13.7% of the original contract price. The requested appropriation is necessary to provide additional improvements at Hermann Square Park, which will exceed the original 8.8% contingency. The project included basic white tree uplights and after the project was awarded, colored LED lights, capable of uplighting the Live Oaks in the square, became available in the trade. The additional contingency will be necessary to install the colored uplights, along with electronic panels and wiring necessary to synchronize the landscape lights with the City Hall and fountain lighting.

**PROJECT LOCATION:** 900 Smith (493L)

**PREVIOUS HISTORY AND PROJECT SCOPE:** On March 26, 2014, Ordinance No. 2014-0248, City Council awarded a construction contract to Times Construction, Inc. to provide construction services for restoration of the reflection pond at Hermann Square Park for the Houston Parks and Recreation Department (HPARD), and appropriated \$1,406,473.00.

**M/WBE INFORMATION:** The original contract and this additional appropriation have a 4% M/WBE goal. The contractor will utilize the certified M/WBE sub-consultant referenced in the original contract to achieve the goal. To date, Times Construction, Inc. has achieved 22.51% M/WBE participation.

**Prior Council Action:**

Ordinance No. 2014-0248 Dated March 26, 2014

**Amount of Funding:**

\$60,123.00 Parks & Recreation Dedication Fund (4035)

**Previous Funding:**

\$1,406,473.00 Parks Consolidated Construction Fund (4502)

**Source of Funding:**

Other (Specify)

Parks & Recreation Dedication Fund (4035) Parks Consolidated Construction Fund (4502)

**ATTACHMENTS:**

| Description  | Type                        |
|--|-----------------------------|
| <input type="checkbox"/> 1st Amendment RCA                           | Signed Cover sheet          |
| <input type="checkbox"/> times construction ord for herman square pk | Ordinance/Resolution/Motion |
| <input type="checkbox"/> Site and Vicinity Maps                      | Backup Material             |
| <input type="checkbox"/> Award RCA                                   | Backup Material             |
| <input type="checkbox"/> Award Ordinance                             | Backup Material             |
| <input type="checkbox"/> CIP Form A                                  | Backup Material             |
| <input type="checkbox"/> Delinquent Tax Report                       | Backup Material             |
| <input type="checkbox"/> Funds Reservation Request Form              | Backup Material             |

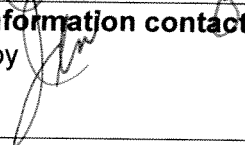


**TO: Mayor via City Secretary      REQUEST FOR COUNCIL ACTION**

|   |                       |                    |
|---|-----------------------|--------------------|
| <b>SUBJECT:</b> First Amendment to Construction Contract and Appropriate Additional Funds<br>Times Construction, Inc.<br>Hermann Square Park<br>WBS No. F-000715-0001-4 | <b>Page</b><br>1 of 1 | <b>Agenda Item</b> |
|---|-----------------------|--------------------|

|   |                         |                    |
|---|-------------------------|--------------------|
| <b>FROM (Department or other point of origin):</b><br>General Services Department | <b>Origination Date</b> | <b>Agenda Date</b> |
|---|-------------------------|--------------------|

|  |   |
|--|---|
| <b>DIRECTOR'S SIGNATURE:</b><br>Scott Minnix  | <b>Council District(s) affected:</b><br>1 |
|--|---|

|   |   |
|---|---|
| <b>For additional information contact:</b><br>Jacquelyn L. Nisby  <b>Phone:</b> 832-393-8023 | <b>Date and identification of prior authorizing Council action:</b><br>Ordinance No. 2014-0248 Dated March 26, 2014 |
|---|---|

**RECOMMENDATION:** Approve First Amendment to construction contract and appropriate additional funds for the project.

|   |                        |
|---|------------------------|
| <b>Amount and Source of Funding:</b><br>\$60,123.00 Parks & Recreation Dedication Fund (4035) | <b>Finance Budget:</b> |
| <b>Previous Funding:</b><br>\$1,406,473.00 Parks Consolidated Construction Fund (4502)        |                        |

**SPECIFIC EXPLANATION:** The General Services Department recommends that City Council approve a First Amendment to the construction contract with Times Construction, Inc. to increase the director's authority to approve Change Orders up to 13.7% of the original contract price. The requested appropriation is necessary to provide additional improvements at Hermann Square Park, which will exceed the original 8.8% contingency.

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SM:RAV:JLN:LJ:DE:de 

c: Marta Crinejo, Jacquelyn L. Nisby, Mark A. Ross, Luci Correa, Christopher Gonzales, Morris Scott, Martha Leyva, Gabriel Mussio, File

**REQUIRED AUTHORIZATION**

CUIC ID # 25PARK239

**General Services Department:**  
Richard A. Vella  
Chief of Design & Construction Division**Houston Parks and Recreation Department:** For  
Joe Turner  
Director



# CITY OF HOUSTON

General Services Department

## Interoffice

Correspondence

**To:** James Koski  
Deputy Chief of Staff

**From:** Scott Minnix  
Director

A handwritten signature in black ink, appearing to be "S. Minnix", is written above the "From:" line.

**Attn:** Mayor's Office  
Department Directors  
City Controller  
GSD Executive Staff

**Date:** September 16, 2014

**Subject:** **Delegation of Authority**

I will be out of the office on city business from Tuesday, September 16 through Friday, September 19, 2014. I will return to the office on Monday, September 22, 2014.

During my absence, GSD Assistant Director, Humberto Bautista will be in charge and authorized to function as Acting Director. Please contact Mr. Bautista at 832-393-8027 (office) or 713-504-4333 (cell) should any questions or concerns arise during my absence.

Mr. Bautista will have full signature authority in matters relating to the operation of GSD, with the exception of Friday; Assistant Director, Ja'nice Sparks will have signature authority on September 19th.

While out of the office I will check email periodically and can be reached by cell phone at 713-826-3409 in case of an emergency.

**Controller's Office**

**To the Honorable Mayor and City Council of the City of Houston, Texas:**

**I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:**

- ( ) Funds have been encumbered out of funds previously appropriated for such purpose.
- ( ) Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- ( ) Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- ( ) No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- ( ) The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- ( ) A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated herein by this reference.
- ( ) Other - Grant Funds Available

**Date:** \_\_\_\_\_, 20\_\_\_\_ **City Controller of the City of Houston, Texas**

|                  |                |                     |
|------------------|----------------|---------------------|
| <b>FUND REF:</b> | <b>AMOUNT:</b> | <b>ENCUMB. NO.:</b> |
|------------------|----------------|---------------------|

**City of Houston, Texas Ordinance No.**

**AN ORDINANCE APPROPRIATING THE SUM OF \$60,123.00 OUT OF THE PARKS & RECREATION DEDICATION FUND AS AN ADDITIONAL APPROPRIATION; APPROVING A FIRST AMENDMENT TO THE CONSTRUCTION CONTRACT BETWEEN THE CITY OF HOUSTON AND TIMES CONSTRUCTION, INC. FOR HERMANN SQUARE PARK (APPROVED BY ORDINANCE 2014-0248); CONTAINING PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.**

\* \* \* \*

**FORM 132.SM**  
**(Approving/Authorizing)**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** The City Council appropriates the sum or sums of money set out in the title of this Ordinance, out of the respective fund or funds set out in such title.

**Section 2.** The City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents

**Section 3.** The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements or other undertaking referenced in the title of this ordinance, in the event of changed circumstances.

**Section 4.** The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

**Section 5.** There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

**PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.**

**APPROVED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.**

\_\_\_\_\_  
Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is \_\_\_\_\_.

\_\_\_\_\_  
City Secretary

(Prepared by Legal Dept. \_\_\_\_\_)  
(JPC/dw 09/23/14) \_\_\_\_\_ Sr. Assistant City Attorney  
(Requested by Scott Minnix, Director, General Services Department)  
(L.D. File No. 054-1400011-001)

G:\CONTRACT\JPC\ORDINANCES\2014 Ordinances\TIMES CONSTRUCTION INC. 1st amd.addtl approp for HermanSquarePk.ParksRecreaDedicaFund.docx

## CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 10/7/2014

ALL

Item Creation Date: 10/1/2014

HR-second amendment to the agreement between the City of Houston and A. Joe Winter Investigations Co. for professional background investigation and motor vehicle reporting services

Agenda Item#: 21.

### **Summary:**

ORDINANCE approving and authorizing second amendment to agreement between the City of Houston and **A. JOE WINTER INVESTIGATIONS CO.** for Professional Background Investigation and Motor Vehicle Reporting Services (Approved by Ordinance No. 2008-0887)

### **Background:**

The Director of Human Resources on behalf of the Houston Fire Department recommends that City Council approve an ordinance authorizing a second amendment to the agreement between the City of Houston and A. Joe Winter Investigations Co. to extend the contract term for an additional two years; for professional background investigation and motor vehicle report services for Houston Fire Department – Human Resources Division The Director of Human Resources may terminate this contract at any time upon 30-days written notice to the contractor.

The original contract was awarded on October 8, 2008 by Ordinance No. 2008-0887 for a three-year term, with two one-year options in the amount of \$645,444.95. The City Council approved the first amendment to the contract on October 16, 2013 for a one-year contract extension. Expenditures as of September 16, 2014 totaled \$409,440.45. The current contract is set to expire on October 21, 2014. The second amendment will extend the contract term for an additional two years. In consideration for the two-year extension, the contractor has agreed to freeze current year pricing through October 21, 2016.

The scope of work performed by A. Joe Winter Investigations Co. will continue to provide professional background investigation and department of motor vehicle report on all employees who drive City vehicles in the course of their job performance as required by COH AP2-2.

M/WBE zero-percent goal document approved by the Office of Business Opportunity formerly known as Affirmative Action Division.

### **PAY OR PLAY PROGRAM**

The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides benefits for some employees but will pay into the Contractor Responsibility Fund for others, in compliance with City policy, specifically to assist the City with procurement of a new Health Benefits Delivery System.

### **Prior Council Action:**

Ordinance No.: 2008-0887, passed on October 08, 2008

Ordinance No.: 2013-0927, passed on October 16, 2013

### **Amount of Funding:**

No Additional Funding Required

### **Contact Information:**

Marina Mendoza, HR Procurement

832-393-6136

Patricia Scott, HR Manager for HFD Recruiting

832-394-6625

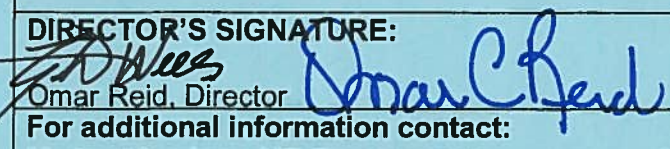
### **ATTACHMENTS:**

| Description      | Type               |
|------------------|--------------------|
| □ RCA-Joe Winter | Signed Cover sheet |

- Original 2008 Ord - 2008-0887
- Form A (Fair Campaign Ord)
- TAX report
- Drug Policy
- Insurance

- Backup Material
- Backup Material
- Backup Material
- Backup Material
- Backup Material



|   |                             |   |                      |
|---|-----------------------------|---|----------------------|
| <b>SUBJECT:</b> Ordinance approving a second amendment to the agreement between the City of Houston and A. Joe Winter Investigations Co. for professional background investigation and motor vehicle reporting services   |                             | <b>Page</b><br>1 of 1   | <b>Agenda Item #</b> |
| <b>FROM (Department or other point of origin):</b><br><br>Human Resources Department  |                             | <b>Origination Date</b><br>September 16, 2014   | <b>Agenda Date</b>   |
| <b>DIRECTOR'S SIGNATURE:</b><br><br>Omar Reid, Director   |                             | <b>Council District affected:</b><br>All  |                      |
| <b>For additional information contact:</b><br>Marina Mendoza, HR Procurement (832) 393-6136<br>Patricia Scott, HR Manager for HFD Recruiting (832) 394-6625   |                             | <b>Date and identification of prior authorizing Council action:</b><br>Ord. 2008-0887, Passed 10/08/08<br>Ord. 2013-0927, Passed 10/16/13 |                      |
| <b>RECOMMENDATION: (Summary)</b><br>Approve an ordinance authorizing a second amendment to the agreement between the City of Houston and A. Joe Winter Investigations Co. for professional background investigation and motor vehicle report services for the Houston Fire Department – Human Resources Division  |                             |   |                      |
| <b>Amount and Source of Funding:</b><br>No additional funding required  |                             |   |                      |
| <b>SPECIFIC EXPLANATION:</b><br><br>The Director of Human Resources on behalf of the Houston Fire Department recommends that City Council approve an ordinance authorizing a second amendment to the agreement between the City of Houston and A. Joe Winter Investigations Co. to extend the contract term for an additional two years; for professional background investigation and motor vehicle report services for Houston Fire Department – Human Resources Division. The Director of Human Resources may terminate this contract at any time upon 30-days written notice to the contractor.<br><br>The original contract was awarded on October 8, 2008 by Ordinance No. 2008-0887 for a three-year term, with two one-year options in the amount of \$645,444.95. The City Council approved the first amendment to the contract on October 16, 2013 for a one-year contract extension. Expenditures as of September 16, 2014 totaled \$409,440.45. The current contract is set to expire on October 21, 2014. The second amendment will extend the contract term for an additional two years. In consideration for the two-year extension, the contractor has agreed to freeze current year pricing through October 21, 2016.<br><br>The scope of work performed by A. Joe Winter Investigations Co. will continue to provide professional background investigation and department of motor vehicle <u>report</u> on all employees who drive City vehicles in the course of their job performance as required by COH AP2-2.<br><br>M/WBE zero-percent goal document approved by the Office of Business Opportunity formerly known as Affirmative Action Division.<br><br><b><u>PAY OR PLAY PROGRAM</u></b><br>The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides benefits for some employees but will pay into the Contractor Responsibility Fund for others, in compliance with City policy, specifically to assist the City with procurement of a new Health Benefits Delivery System. |                             |   |                      |
| <b>REQUIRED AUTHORIZATION</b>   |                             |   |                      |
| <b>Finance Department:</b>  | <b>Other Authorization:</b> | <b>Other Authorization:</b>   |                      |

## CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 10/7/2014  
District A, District E, District F

Item Creation Date: 9/30/2014

PLN-Ordinance Calling Public Hearings on proposed Strategic Partnership Agreements

Agenda Item#: 22.

### **Summary:**

ORDINANCE calling public hearings at which interested persons will be given the opportunity to be heard on a Strategic Partnership Agreement between the City of Houston and **MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 118** and on a proposal for the City of Houston to annex for limited purposes certain territory located within such district in Harris and Montgomery Counties; proposed amendments to Strategic Partnership Agreements between the City of Houston and **WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2** and **FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 30** and on proposals for the City of Houston to annex for limited purposes certain territory located within such districts in Harris and Fort Bend Counties; proposed amendments to Strategic Partnership Agreement between the City of Houston and **DOWDELL PUBLIC UTILITY DISTRICT** and on proposals for the City of Houston to annex for limited purposes territory within and in the vicinity of such district in Harris County; proposed amendments to Strategic Partnership Agreement between the City of Houston and **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 62**; proposals of the City of Houston to impose the City of Houston's sales and use tax in such territory; providing for the publication of notice of such hearings

### **Background:**

In 1999, the State Legislature gave the City of Houston the right to enter into Strategic Partnership Agreements with utility districts. Such agreements allow the City to annex all or part of these districts for limited purposes. The City can then levy a sales tax and provide specified, limited services to the area. The City cannot levy a property tax in areas annexed for limited purposes.

Pursuant to Section 43.075 of the Texas Local Government Code:

Before the governing body of a municipality or a district adopts a Strategic Partnership Agreement, it shall conduct two public hearings at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so.

The hearings called by this ordinance are for agreements, or amendments to existing agreement, with the following Utility Districts.

### **New agreements:**

Montgomery County MUD No. 118

### **Amendments to existing agreements:**

Dowdell PUD (Amendment 1)

Harris County MUD No. 62 (Amendment 1)

West Harris County NUD No. 2 (Amendment 2)

Ft. Bend County MUD No. 30 (Amendment 2)

Consistent with City precedent for the majority of previously approved SPAs, the sales taxes collected in each of these Districts will be divided evenly between the City and the District. The City is only annexing commercial property and undeveloped land. There is no population located in these territories proposed to be annexed for limited purposes.

The hearings will be held on November 5, 2014 and November 12, 2014 in City Council chamber.

### **Prior Council Action:**

N/A

### **Amount of Funding:**

N/A

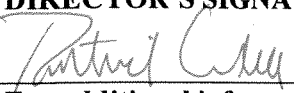


**Contact Information:**

Nicole Smothers - 713-837-7856

**ATTACHMENTS:**

| Description   |     | Type               |
|---|-----|--------------------|
|  | RCA | Signed Cover sheet |

|   |  |  |                             |                                       |
|---|--|--|-----------------------------|---------------------------------------|
| <b>SUBJECT:</b><br>Ordinance Calling Public Hearings on proposed Strategic Partnership Agreements with certain utility districts in the Houston area  |  | <b>Category</b><br>#   | <b>Page</b><br>1 of 1       | <b>Agenda Item</b><br>#               |
| <b>FROM (Department or other point of origin):</b><br>Planning and Development  |  | <b>Origination Date</b><br>September 29, 2014                              |                             | <b>Agenda Date</b><br>October 8, 2014 |
| <b>DIRECTOR'S SIGNATURE:</b><br>   |  | <b>Council District affected:</b><br>A, E and F                            |                             |                                       |
| <b>For additional information contact:</b> Nicole Smothers<br>Phone: 713-837-7856   |  | <b>Date and identification of prior authorizing Council action:</b><br>N/A |                             |                                       |
| <b>RECOMMENDATION:</b> It is recommended that City Council pass the Ordinance Calling Public Hearings on proposed Strategic Partnership Agreements with certain utility districts in the Houston area.  |  |  |                             |                                       |
| <b>Amount and Source of Funding:</b><br>N/A   |  |  | <b>Finance Budget:</b>      |                                       |
| <b>SPECIFIC EXPLANATION:</b><br>In 1999, the State Legislature gave the City of Houston the right to enter into Strategic Partnership Agreements with utility districts. Such agreements allow the City to annex all or part of these districts for limited purposes. The City can then levy a sales tax and provide specified, limited services to the area. The City cannot levy a property tax in areas annexed for limited purposes.<br><br>Pursuant to Section 43.075 of the Texas Local Government Code:<br><i>Before the governing body of a municipality or a district adopts a Strategic Partnership Agreement, it shall conduct two public hearings at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so.</i><br><br>The hearings called by this ordinance are for agreements, or amendments to existing agreements, with the following Utility Districts:<br><br><b>New Agreements:</b><br>Montgomery County MUD No. 118<br><br><b>Amendments to existing Agreements:</b><br>Dowdell PUD (Amendment 1)<br>Harris County MUD No. 62 (Amendment 1)<br>West Harris County MUD No. 2 (Amendment 2)<br>Fort Bend County MUD No. 30 (Amendment 2)<br><br>Consistent with City precedent for the majority of previously approved SPAs, the sales taxes collected in each of these Districts will be divided evenly between the City and the District. The City is only annexing commercial property and undeveloped land. There is no population located in these territories proposed to be annexed for limited purposes.<br><br>The hearings will be held on November 5, 2014 and November 12, 2014 in City Council chambers.<br><br>cc: Marta Crinejo<br>David Feldman<br>Tiffany Evans<br>Sameera Mahendru<br>Kelly Dowe |  |  |                             |                                       |
| <b>REQUIRED AUTHORIZATION</b>   |  |  |                             |                                       |
| <b>Finance Director:</b>  |  | <b>Other Authorization:</b>  | <b>Other Authorization:</b> |                                       |



## REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

**SUBJECT:** Ordinance approving the Fiscal Year 2015 Operating Budget for the Fifth Ward Redevelopment Authority and a Fiscal Years 2015 - 2019 Capital Improvement Plan (CIP) Budget for Reinvestment Zone Number Eighteen (Fifth Ward Zone).

Category #

Page  
1 of 1

RCA #

Agenda Item#

**FROM: (Department or other point of origin):**

Andrew F. Icken

Chief Development Officer

**DIRECTOR'S SIGNATURE:**

Origination Date

Agenda Date

**Council Districts affected:**

B, H

**For additional information contact:**

Gwen Tillotson

**Phone:** (832) 393-0937

**Date and identification of prior authorizing Council Action:**

Ord. No. 2013-0985, 11/06/13

### **RECOMMENDATION: (Summary)**

City Council adopt an ordinance approving the Fiscal Year 2015 Operating Budget for the Fifth Ward Redevelopment Authority and a Fiscal Years 2015 - 2019 CIP Budget for Reinvestment Zone Number Eighteen Fifth Ward Zone.

**Amount of Funding:** No Funding Required

### **SOURCE OF FUNDING:**

☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund  
☐ Other (Specify)

### **SPECIFIC EXPLANATION:**

The Administration has undertaken a comprehensive review of the proposed FY15 TIRZ budgets and recommends approval of the FY15 Operating Budget for the Fifth Ward Redevelopment Authority (Authority) and the FY15 - FY19 CIP Budget for Tax Increment Reinvestment Zone Number Eighteen (Zone).

- Total Operating Budget for FY15 is \$7,855,478, which includes \$233,131 for required fund transfers and \$7,622,347 for Project Costs.
- The FY15 - FY19 CIP Budget for the Zone totals \$410,000 for affordable housing related expenditures such as land acquisition, design, and construction as well as cultural facilities and parks.
- The FY15 Budget provides for the transfer of \$92,811 to the City's Housing and Community Development Department for Affordable Housing.
- The project expenses include \$69,300 for administration and overhead. The Authority must advise the Chief Development Officer of any budget amendments. Adjustments to the budget that exceed the lesser of \$400,000 or 5% of project costs require City Council approval.

Attachments: FY15 Operating Budget and FY15 - FY19 CIP Budget

cc: Marta Crinejo, Agenda Director  
Anna Russell, City Secretary  
David Feldman, City Attorney  
Gary Dzierlenga, Senior Assistant City Attorney

## REQUIRED AUTHORIZATION

**Other Authorization:**

**Other Authorization:**

**Other Authorization:**

CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE

Fund Summary  
Fund Name: Fifth Ward Redevelopment Authority  
TIRZ: 18  
Fund Number: 7566/50

|                                 |                                   |                 |
|---------------------------------|-----------------------------------|-----------------|
| P<br>R<br>O<br>F<br>I<br>L<br>E | Base Year:                        | 1999            |
|                                 | Base Year Taxable Value:          | \$ 45,855,979   |
|                                 | Projected Taxable Value (TY2014): | \$ 93,375,341   |
|                                 | Current Taxable Value (TY2013):   | \$ 79,986,051   |
|                                 | Acres:                            | 498.97          |
|                                 | Administrator (Contact):          | Rosalind Walton |
|                                 | Contact Number:                   | (713) 674-0175  |

|   |   |
|---|---|
| N<br>A<br>R<br>R<br>A<br>T<br>I<br>V<br>E | <b>Zone Purpose:</b>  |
|   | Tax Increment Reinvestment Zone Number Eighteen, City of Houston, Texas was created to facilitate the revitalization of the historic Fifth Ward from a blighted and deteriorated neighborhood into a viable residential community with supporting commercial and retail development. Proposed improvements would address inadequate or deteriorated streets, utilities and sidewalks, parks and affordable housing. |

| P<br>R<br>O<br>J<br>E<br>C<br>T<br><br>P<br>L<br>A<br>N |  | Total Plan           | Cumulative Expenses<br>(to 6/30/13) | Variance             |
|---|--|----------------------|-------------------------------------|----------------------|
|   | Capital Projects:                                  |                      |                                     |                      |
|   | Land Assembly and Historic Preservation            | \$ 1,750,000         | \$ 121,954                          | \$ 1,628,046         |
|   | Roadway and Sidewalk Improvements                  | 2,550,000            | 24,118                              | 2,525,882            |
|   | Public Utility Improvements                        | 30,000               | 26,813                              | 3,187                |
|   | Environmental Remediation                          | 500,000              | -                                   | 500,000              |
|   | Demolition   | 400,000              | -                                   | 400,000              |
|   | Park and Recreational Facilities                   | 800,000              | 80,439                              | 719,561              |
|   | Gateway Improvements                               | 300,000              | -                                   | 300,000              |
|   | Streetscape/Landscaping/Lighting                   | 350,000              | 86,051                              | 263,949              |
|   | Bus Shelters                                       | 80,000               | -                                   | 80,000               |
|   | Lyons Avenue Improvements                          | 5,000,000            | 250,000                             | 4,750,000            |
|   | Developer Reimbursement                            | 1,500,000            | -                                   | 1,500,000            |
|   | <b>Total Capital Projects</b>                      | <b>\$ 13,260,000</b> | <b>\$ 589,375</b>                   | <b>\$ 12,670,625</b> |
|   | <b>Affordable Housing</b>                          | <b>4,000,000</b>     | <b>182,162</b>                      | <b>3,817,838</b>     |
|   | <b>School &amp; Education/Cultural Facilities</b>  | <b>2,952,463</b>     | <b>518,110</b>                      | <b>2,434,353</b>     |
|   | <b>Financing Costs</b>                             | <b>6,100,000</b>     | <b>-</b>                            | <b>6,100,000</b>     |
|   | <b>Administration Costs/ Professional Services</b> | <b>1,620,000</b>     | <b>771,481</b>                      | <b>848,519</b>       |
|   | <b>Creation Costs</b>                              | <b>-</b>             | <b>-</b>                            | <b>-</b>             |
|   | <b>Total Project Plan</b>                          | <b>\$ 27,932,463</b> | <b>\$ 2,061,128</b>                 | <b>\$ 25,871,335</b> |

| D<br>E<br>B<br>T | Additional Financial Data               | FY2014 Budget | FY2014 Estimate                        | FY2015 Budget                          |
|------------------|---|---------------|--|--|
|                  |   |               |  |  |
|                  | <u>Debt Service</u>                     | \$ -          | \$ -                                   | \$ -                                   |
|                  | Principal                               | \$ -          | \$ -                                   | \$ -                                   |
|                  | Interest                                | \$ -          | \$ -                                   | \$ -                                   |
|                  | <b>Balance as of 6/30/13</b>            |               | <b>Projected Balance as of 6/30/14</b> | <b>Projected Balance as of 6/30/15</b> |
|                  | <u>Year End Outstanding (Principal)</u> |               |  |  |
|                  | Bond Debt                               | \$ -          | \$ -                                   | \$ -                                   |
|                  | Bank Loan                               | \$ -          | \$ -                                   | \$ -                                   |
|                  | Line of Credit                          | \$ -          | \$ -                                   | \$ -                                   |
|                  | Developer Agreement                     | \$ -          | \$ -                                   | \$ -                                   |
|                  | Other                                   | \$ -          | \$ -                                   | \$ -                                   |

CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE

Fund Summary  
Fund Name: Fifth Ward Redevelopment Authority  
TIRZ: 18  
Fund Number: 7566/50

| TIRZ Budget Line Items                  | FY2014 Budget       | FY2014 Estimate   | FY2015 Budget       |
|---|---------------------|-------------------|---------------------|
| <b>RESOURCES</b>                        |                     |                   |                     |
| RESTRICTED Funds - Capital Projects     | \$ 101,129          | \$ -              | \$ -                |
| RESTRICTED Funds - Affordable Housing   | \$ -                | \$ -              | \$ -                |
| RESTRICTED Funds - Bond Debt Service    | \$ -                | \$ -              | \$ -                |
| UNRESTRICTED Funds                      | \$ 242,752          | \$ 434,313        | \$ 334,735          |
| <b>Beginning Balance</b>                | <b>\$ 343,881</b>   | <b>\$ 434,313</b> | <b>\$ 334,735</b>   |
| City tax revenue                        | \$ 224,251          | \$ 199,251        | \$ 278,432          |
| County tax revenue                      | \$ -                | \$ -              | \$ -                |
| ISD tax revenue                         | \$ 281,225          | \$ 227,682        | \$ 303,615          |
| ISD tax revenue - Pass Through          | \$ -                | \$ -              | \$ -                |
| Community College tax revenue           | \$ -                | \$ -              | \$ -                |
| <b>Incremental property tax revenue</b> | <b>\$ 505,476</b>   | <b>\$ 426,932</b> | <b>\$ 582,047</b>   |
| Proceeds from Land Sales                | \$ 150,000          | \$ -              | \$ 150,000          |
| <b>Miscellaneous revenue</b>            | <b>\$ 150,000</b>   | <b>\$ -</b>       | <b>\$ 150,000</b>   |
| COH TIRZ interest                       | \$ -                | \$ 2,496          | \$ -                |
| Interest Income                         | \$ 1,044            | \$ 1,237          | \$ 1,439            |
| <b>Other Interest Income</b>            | <b>\$ 1,044</b>     | <b>\$ 3,733</b>   | <b>\$ 1,439</b>     |
| IKE Recovery Funds - COH Housing        | \$ -                | \$ -              | \$ 6,983,047        |
| <b>Grant Proceeds</b>                   | <b>\$ -</b>         | <b>\$ -</b>       | <b>\$ 6,983,047</b> |
| Proceeds from Bank Loan                 | \$ -                | \$ -              | \$ -                |
| Contract Revenue Bond Proceeds          | \$ -                | \$ -              | \$ -                |
| <b>TOTAL AVAILABLE RESOURCES</b>        | <b>\$ 1,000,401</b> | <b>\$ 864,978</b> | <b>\$ 8,051,269</b> |

**CITY OF HOUSTON**  
**ECONOMIC DEVELOPMENT DIVISION**  
**FISCAL YEAR 2015 BUDGET PROFILE**

Fund Summary  
Fund Name: **Fifth Ward Redevelopment Authority**  
TIRZ: **18**  
Fund Number: **7566/50**

| TIRZ Budget Line Items  | FY2014 Budget       | FY2014 Estimate   | FY2015 Budget       |
|---|---------------------|-------------------|---------------------|
| <b>EXPENDITURES</b>   |                     |                   |                     |
| Accounting  | \$ 6,000            | \$ 6,000          | \$ 6,000            |
| Administration Salaries & Benefits                              | \$ 45,000           | \$ 45,000         | \$ 45,000           |
| Auditor   | \$ 5,500            | \$ 5,000          | \$ 5,500            |
| Bond Services/Trustee/Financial Advisor                         | \$ 1,800            | \$ -              | \$ 1,800            |
| Insurance   | \$ 1,000            | \$ 795            | \$ 1,000            |
| Office Administration   | \$ 10,000           | \$ 7,481          | \$ 10,000           |
| <b>TIRZ Administration and Overhead</b>                         | <b>\$ 69,300</b>    | <b>\$ 64,276</b>  | <b>\$ 69,300</b>    |
| Affordable Housing and Choice Neighborhoods Consultants         | \$ 150,000          | \$ 80,000         | \$ 70,000           |
| Legal   | \$ 40,000           | \$ 30,000         | \$ 40,000           |
| Construction Audit  | \$ -                | \$ -              | \$ -                |
| Planning Consultants  | \$ -                | \$ -              | \$ -                |
| <b>Program and Project Consultants</b>                          | <b>\$ 190,000</b>   | <b>\$ 110,000</b> | <b>\$ 110,000</b>   |
| <b>Management consulting services</b>                           | <b>\$ 259,300</b>   | <b>\$ 174,276</b> | <b>\$ 179,300</b>   |
| Capital Expenditures (See CIP Schedule)                         | \$ 366,500          | \$ 178,500        | \$ 410,000          |
|   | \$ -                | \$ -              | \$ -                |
| <b>TIRZ Capital Expenditures</b>                                | <b>\$ 366,500</b>   | <b>\$ 178,500</b> | <b>\$ 410,000</b>   |
| Developer - To Be Determined                                    | \$ -                | \$ -              | \$ 6,983,047        |
| Cleme Manor - NHP   | \$ -                | \$ -              | \$ 50,000           |
| <b>Developer / Project Reimbursements</b>                       | <b>\$ -</b>         | <b>\$ -</b>       | <b>\$ 7,033,047</b> |
| <b>System debt service</b>                                      | <b>\$ -</b>         | <b>\$ -</b>       | <b>\$ -</b>         |
| <b>TOTAL PROJECT COSTS</b>                                      | <b>\$ 625,800</b>   | <b>\$ 352,776</b> | <b>\$ 7,622,347</b> |
| Payment/transfer to ISD - educational facilities                | \$ 93,947           | \$ 76,087         | \$ 101,398          |
| Payment/transfer to ISD - educational facilities (Pass Through) | \$ -                | \$ -              | \$ -                |
| Administration Fees:  |                     |                   |                     |
| City  | \$ 11,213           | \$ 9,963          | \$ 13,922           |
| County  | \$ -                | \$ -              | \$ -                |
| ISD   | \$ 25,000           | \$ 25,000         | \$ 25,000           |
| HCC   | \$ -                | \$ -              | \$ -                |
| Affordable Housing:   |                     |                   |                     |
| City  | \$ 74,750           | \$ 66,417         | \$ 92,811           |
| County  | \$ -                | \$ -              | \$ -                |
| ISD to City of Houston  | \$ -                | \$ -              | \$ -                |
| Municipal Services (Payable to COH)                             | \$ -                | \$ -              | \$ -                |
| <b>Total Transfers</b>  | <b>\$ 204,910</b>   | <b>\$ 177,467</b> | <b>\$ 233,131</b>   |
| <b>Total Budget</b>   | <b>\$ 830,710</b>   | <b>\$ 530,243</b> | <b>\$ 7,855,478</b> |
| RESTRICTED Funds - Capital Projects                             | \$ -                | \$ -              | \$ -                |
| RESTRICTED Funds - Affordable Housing                           | \$ -                | \$ -              | \$ -                |
| RESTRICTED Funds - Bond Debt Service                            | \$ -                | \$ -              | \$ -                |
| UNRESTRICTED Funds  | \$ 169,691          | \$ 334,735        | \$ 195,791          |
| <b>Ending Fund Balance</b>                                      | <b>\$ 169,691</b>   | <b>\$ 334,735</b> | <b>\$ 195,791</b>   |
| <b>Total Budget &amp; Ending Fund Balance</b>                   | <b>\$ 1,000,401</b> | <b>\$ 864,978</b> | <b>\$ 8,051,269</b> |

Notes:

| Council District | CIP No. | Project                               | Fiscal Year Planned Appropriations |                   |                   |             |             |             |             |                   | Cumulative Total (To Date) |
|------------------|---------|---------------------------------------|------------------------------------|-------------------|-------------------|-------------|-------------|-------------|-------------|-------------------|----------------------------|
|                  |         |                                       | Through 2013                       | Projected 2014    | 2015              | 2016        | 2017        | 2018        | 2019        | FY15 - FY19 Total |                            |
| B, H             | T-1801  | Land Acquisition - Affordable Housing | \$ 87,229                          | 138,500           | 165,000           | -           | -           | -           | -           | 165,000           | 390,729                    |
| B,H              | T-1802  | Deluxe Theater                        | \$ 250,000                         | -                 | 150,000           | -           | -           | -           | -           | 150,000           | 400,000                    |
| B,H              | T-1803  | Fifth Ward Jam                        | \$ 34,725                          | 35,000            | 25,000            | -           | -           | -           | -           | 25,000            | 94,725                     |
| B,H              | T-1804  | Lyons Avenue Streetscape              | \$ 86,051                          | 5,000             | 70,000            | -           | -           | -           | -           | 70,000            | 161,051                    |
| <b>Totals</b>    |         |                                       | <b>\$ 458,005</b>                  | <b>\$ 178,500</b> | <b>\$ 410,000</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ 410,000</b> | <b>\$ 1,046,505</b>        |

\* NOTE:

\*\* NOTE:

\*\*\* NOTE:



| Source of Funds | Fiscal Year Planned Appropriations |                |         |      |      |      |      |                      | Cumulative<br>Total<br>(To Date) |
|-----------------|------------------------------------|----------------|---------|------|------|------|------|----------------------|----------------------------------|
|                 | Through 2013                       | Projected 2014 | 2015    | 2016 | 2017 | 2018 | 2019 | FY15 - FY19<br>Total |                                  |
|                 |                                    |                |         |      |      |      |      |                      |                                  |
| TIRZ Funds      | 458,005                            | 178,500        | 410,000 | -    | -    | -    | -    | 410,000              | 1,046,505                        |
| City of Houston | -                                  | -              | -       | -    | -    | -    | -    | -                    | -                                |
| Grants          | -                                  | -              | -       | -    | -    | -    | -    | -                    | -                                |
| Other           | -                                  | -              | -       | -    | -    | -    | -    | -                    | -                                |
| Project Total   | 458,005                            | 178,500        | 410,000 | -    | -    | -    | -    | 410,000              | 1,046,505                        |

| Project: | Land Acquisition - Affordable Housing | City Council District | Key Map:  |            | WBS.: | T-1801 |
|----------|---------------------------------------|-----------------------|-----------|------------|-------|--------|
|          |                                       |                       | Location: | Geo. Ref.: |       |        |
|          |                                       |                       |           |            |       |        |
|          |                                       | B, H                  |           |            |       |        |
|          |                                       | B, H                  |           |            | 55    |        |

| Description:   | Conversion of vacant and deteriorating properties to Affordable Housing.   | Operating and Maintenance Costs: (\$ Thousands) |      |      |      |      |    |    |
|----------------|--|---|------|------|------|------|----|----|
|                |  | 2015  | 2016 | 2017 | 2018 | 2019 |    |    |
| Justification: | Lack of adequate Affordable Housing stock constrains the ability to develop and redevelop the neighborhood. Without assistance the community will continue to fall behind other sectors of the City. | Personnel                                       | -    | -    | -    | -    | \$ |    |
|                |  | Supplies  | -    | -    | -    | -    | -  | \$ |
|                |  | Svcs. & Chgs.                                   | -    | -    | -    | -    | -  | \$ |
|                |  | Capital Outlay                                  | -    | -    | -    | -    | -  | \$ |
|                |  | Total   | \$   | -    | \$   | -    | \$ | -  |
|                | FTEs   |   |      |      |      |      | -  |    |

| Fiscal Year Planned Expenses |                |      |         |        |         |      |                   |                            |         |        |         |
|------------------------------|----------------|------|---------|--------|---------|------|-------------------|----------------------------|---------|--------|---------|
| Project Allocation           |                | 2015 | 2016    | 2017   | 2018    | 2019 | FY15 - FY19 Total | Cumulative Total (To Date) |         |        |         |
| Phase                        | 1 Planning     |      | -       | -      |         | -    | -                 | \$                         | 10,000  |        |         |
|                              | 2 Acquisition  |      | 150,000 | -      | -       | -    | 150,000           | \$                         | 348,229 |        |         |
|                              | 3 Design       |      | -       | -      | -       | -    | -                 | \$                         | -       |        |         |
|                              | 4 Construction |      | -       | -      | -       | -    | -                 | \$                         | -       |        |         |
|                              | 5 Equipment    |      | -       | -      | -       | -    | -                 | \$                         | -       |        |         |
|                              | 6 Close-Out    |      | -       | -      | -       | -    | -                 | \$                         | -       |        |         |
|                              | 7 Other        |      | 17,500  | 15,000 | -       | -    | -                 | 15,000                     | \$      | 32,500 |         |
| Other Sub-Total:             |                |      | 40,000  |        |         |      |                   | \$                         | -       |        |         |
| Total Allocations            |                | \$   | 87,229  | \$     | 200,000 | \$   | 138,500           | \$                         | 165,000 | \$     | 390,729 |

| Source of Funds |        |        |         |         |         |         |         |         |         |         |         |         |
|-----------------|--------|--------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| TIRZ Funds      |        |        |         |         |         |         |         |         |         |         |         |         |
| City of Houston | 87,229 |        | 138,500 |         | 200,000 |         | 138,500 |         | 165,000 |         | 390,729 |         |
| Grant Funds     | -      |        | -       |         | -       |         | -       |         | -       |         | -       |         |
| Other           | -      |        | -       |         | -       |         | -       |         | -       |         | -       |         |
| Total Funds     | \$     | 87,229 | \$      | 200,000 | \$      | 138,500 | \$      | 165,000 | \$      | 165,000 | \$      | 390,729 |

\*NOTE: Page 7 of 9 T-1802

| Project:     |  | Fifth Ward Jam                                  |  | City Council District |  | Key Map:      |  | WBS.:         |  | T-1803         |  |
|--------------|--|---|--|-----------------------|--|---------------|--|---------------|--|----------------|--|
|              |  |   |  | Location:             |  | Geo. Ref.:    |  |               |  |                |  |
|              |  |   |  | Served:               |  | Neighborhood: |  | 55            |  |                |  |
| Description: |  | Operating and Maintenance Costs: (\$ Thousands) |  |                       |  |               |  |               |  |                |  |
|              |  |   |  | 2015                  |  | 2016          |  | 2017          |  | 2018           |  |
|              |  |   |  | 2019                  |  |               |  |               |  |                |  |
|              |  |   |  | Personnel             |  | Supplies      |  | Svcs. & Chgs. |  | Capital Outlay |  |
|              |  |   |  | Total                 |  | \$            |  | \$            |  | \$             |  |
|              |  |   |  | FTEs                  |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
|              |  |   |  |                       |  |               |  |               |  |                |  |
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| Project:                     | Lyons Avenue Streetscape  | City Council District                           |          | Key Map:   |               | WBS.: | T-1804            |                            |
|------------------------------|---|---|----------|------------|---------------|-------|-------------------|----------------------------|
|                              |   | Location:                                       | B,H      | Geo. Ref.: |               |       |                   |                            |
|                              |   |   | B,H      |            | Neighborhood: |       |                   |                            |
| Description:                 | Lyons Avenue streetscape to support new street signs, way making signage to highlight destinations in the community and a banner district.  | Operating and Maintenance Costs: (\$ Thousands) |          |            |               |       |                   |                            |
|                              |   | 2015  | 2016     | 2017       | 2018          | 2019  |                   |                            |
| Justification:               | Streetscape is important in place making and helping to establish an identify for the area and a major component in the Lyons Ave. Renaissance that includes 22 blocks along the Lyons Ave. Corridor. | Personnel                                       | -        | -          | -             | -     | \$                |                            |
|                              |   | Supplies  | -        | -          | -             | -     | \$                |                            |
|                              |   | Svcs. & Chgs.                                   | -        | -          | -             | -     | \$                |                            |
|                              |   | Capital Outlay                                  | -        | -          | -             | -     | \$                |                            |
|                              |   | Total   | \$       | -          | \$            | -     | \$                | -                          |
|                              |   | FTEs  |          |            |               |       | -                 |                            |
| Fiscal Year Planned Expenses |   |   |          |            |               |       |                   |                            |
| Project Allocation           | Projected Expenses thru 6/30/13   | 2015  | 2016     | 2017       | 2018          | 2019  | FY15 - FY19 Total | Cumulative Total (To Date) |
| Phase                        |   |   |          |            |               |       |                   |                            |
| 1 Planning                   | -   | 5,000   | -        | -          | -             | -     | \$                | \$ 5,000                   |
| 2 Acquisition                | -   | -   | -        | -          | -             | -     | \$                | \$                         |
| 3 Design                     | -   | 7,500   | -        | -          | -             | -     | \$                | \$ 7,500                   |
| 4 Construction               | 86,051  | 15,000  | -        | -          | -             | -     | \$                | \$ 15,000                  |
| 5 Equipment                  | -   | 44,000  | -        | -          | -             | -     | \$                | \$ 44,000                  |
| 6 Close-Out                  | -   | -   | -        | -          | -             | -     | \$                | \$                         |
| 7 Other                      | -   | 3,500   | -        | -          | -             | -     | \$                | \$ 3,500                   |
|                              | -   | -   | -        | -          | -             | -     | \$                | \$                         |
|                              | -   | -   | -        | -          | -             | -     | \$                | \$                         |
|                              | -   | -   | -        | -          | -             | -     | \$                | \$                         |
|                              | -   | -   | -        | -          | -             | -     | \$                | \$                         |
|                              | -   | -   | -        | -          | -             | -     | \$                | \$                         |
| Other Sub-Total:             | -   | 3,500   | -        | -          | -             | -     | \$                | \$ 3,500                   |
|                              |   |   |          |            |               |       |                   |                            |
| Total Allocations            | \$ 86,051   | \$ 75,000                                       | \$ 5,000 | \$         | \$            | \$    | \$                | \$ 161,051                 |
|                              |   |   |          |            |               |       |                   |                            |
| Source of Funds              |   |   |          |            |               |       |                   |                            |
| TIRZ Funds                   | 86,051  | 75,000  | 5,000    | -          | -             | -     | \$                | \$ 70,000                  |
| City of Houston              | -   | -   | -        | -          | -             | -     | \$                | \$                         |
| Grants                       | -   | -   | -        | -          | -             | -     | \$                | \$                         |
| Other                        | -   | -   | -        | -          | -             | -     | \$                | \$                         |
| Total Funds                  | \$ 86,051   | \$ 75,000                                       | \$ 5,000 | \$         | \$            | \$    | \$                | \$ 161,051                 |

\*NOTE:

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

District C, District G

Item Creation Date: 9/30/2014

MYR - FY15 Upper Kirby Redevelopment Authority (Reinvestment Zone Nineteen)

Agenda Item#: 25.

**Summary:**

ORDINANCE relating to the Fiscal Affairs of the **UPPER KIRBY REDEVELOPMENT AUTHORITY ON BEHALF OF REINVESTMENT ZONE NUMBER NINETEEN, CITY OF HOUSTON, TEXAS (UPPER KIRBY ZONE)**; approving the Fiscal Year 2015 Operating Budget for the Authority and the Fiscal Years 2015-2019 Capital Improvements Budget for the Zone **DISTRICTS C - COHEN and G - PENNINGTON**

**Background:**

**SUBJECT:** Ordinance approving the Fiscal Year 2015 Operating Budget for Upper Kirby Redevelopment Authority and the Fiscal Years 2015 - 2019 Capital Improvement Plan (CIP) for Reinvestment Zone Number Nineteen (Upper Kirby Zone).

**RECOMMENDATION: (Summary)**

City Council adopt an ordinance approving the Fiscal Year 2015 Operating Budget for Upper Kirby Redevelopment Authority and the Fiscal Years 2015 - 2019 CIP for Reinvestment Zone Number Nineteen (Upper Kirby Zone).

**SPECIFIC EXPLANATION:**

The Administration has undertaken a comprehensive review of proposed FY15 TIRZ budgets and recommends approval of the FY15 Operating Budget for Upper Kirby Redevelopment Authority (Authority) and the FY15 - FY19 CIP for Reinvestment Zone Number Nineteen (Zone).

Total Operating Budget for FY15 is \$27,577,695, which includes \$1,312,072 for required fund transfers and \$26,265,623 for Project Costs.

The FY15 – FY19 CIP Budget totals \$93,719,604, and includes provisions for the design and construction of roadway and street improvements, flood remediation infrastructure, pedestrian safety and mobility improvements and parks.

The FY15 Operating Budget includes \$23,830,000 for capital expenditures and \$131,400 for administration and overhead. The Authority must advise the Chief Development Officer of any budget amendments. Adjustments to the Project Costs in the Operating Budget that exceed \$400,000 require City Council approval.

The Budget includes a municipal services cost payment in FY15 of \$392,000 to pay for the incremental cost of providing services to the area.

Attachments: FY15 Operating Budget and FY15 - FY19 CIP

cc: Marta Crinejo, Agenda Director  
Anna Russell, City Secretary  
David Feldman, City Attorney  
Gary Dzierlenga, Senior Assistant City Attorney

**Prior Council Action:**

**Date and identification of prior authorizing Council Action:**

Ord. No. 2013-0978, 10/23/13

**Contact Information:**

Gwendolyn Tillotson

**Phone:** (832) 393-0937

**ATTACHMENTS:**

| Description                               | Type               |
|---|--------------------|
| ❑ TIRZ 19 Budget - Upper Kirby RCA        | Signed Cover sheet |
| ❑ TIRZ 19 Budget - Upper Kirby Backup     | Backup Material    |
| ❑ FY15 TIRZ 19 - Upper Kirby PRIOR ACTION | Backup Material    |



# REQUEST FOR COUNCIL ACTION

**TO: Mayor via City Secretary**

**RCA #**

**SUBJECT:** Ordinance approving the Fiscal Year 2015 Operating Budget for Upper Kirby Redevelopment Authority and the Fiscal Years 2015 - 2019 Capital Improvement Plan (CIP) for Reinvestment Zone Number Nineteen (Upper Kirby Zone).

**Category #**

**Page**  
1 of 1

**Agenda Item#**

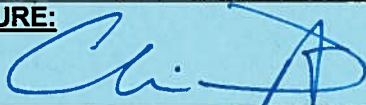
**FROM: (Department or other point of origin):**

Andrew F. Icken  
Chief Development Officer

**Origination Date**

**Agenda Date**

**DIRECTOR'S SIGNATURE:**



**Council Districts affected:**

C, G

**For additional information contact:**

Gwen Tillotson

**Phone:** (832) 393-0937

**Date and identification of prior authorizing**

**Council Action:**

Ord. No. 2013-0978, 10/23/13

**RECOMMENDATION: (Summary)**

City Council adopt an ordinance approving the Fiscal Year 2015 Operating Budget for Upper Kirby Redevelopment Authority and the Fiscal Years 2015 - 2019 CIP for Reinvestment Zone Number Nineteen (Upper Kirby Zone).

**Amount of Funding:** No Funding Required

**SOURCE OF FUNDING:**

☐ General Fund

☐ Grant Fund

☐ Enterprise Fund

☐ Other (Specify)

**SPECIFIC EXPLANATION:**

The Administration has undertaken a comprehensive review of proposed FY15 TIRZ budgets and recommends approval of the FY15 Operating Budget for Upper Kirby Redevelopment Authority (Authority) and the FY15 - FY19 CIP for Reinvestment Zone Number Nineteen (Zone).

- Total Operating Budget for FY15 is \$27,577,695, which includes \$1,312,072 for required fund transfers and \$26,265,623 for Project Costs.
- The FY15 – FY19 CIP Budget totals \$93,719,604, and includes provisions for the design and construction of roadway and street improvements, flood remediation infrastructure, pedestrian safety and mobility improvements and parks.
- The FY15 Operating Budget includes \$23,830,000 for capital expenditures and \$131,400 for administration and overhead. The Authority must advise the Chief Development Officer of any budget amendments. Adjustments to the Project Costs in the Operating Budget that exceed \$400,000 require City Council approval.
- The Budget includes a municipal services cost payment in FY15 of \$392,000 to pay for the incremental cost of providing services to the area.

**Attachments:** FY15 Operating Budget and FY15 - FY19 CIP

**cc:** Marta Crinejo, Agenda Director

Anna Russell, City Secretary

David Feldman, City Attorney

Gary Dzierlenga, Senior Assistant City Attorney

## REQUIRED AUTHORIZATION

**Other Authorization:**

**Other Authorization:**

**Other Authorization:**

CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE

Fund Summary  
Fund Name: Upper Kirby Redevelopment Authority  
TIRZ: 19  
Fund Number: 7567/50

|                                 |                                   |                  |
|---------------------------------|-----------------------------------|------------------|
| P<br>R<br>O<br>F<br>I<br>L<br>E | Base Year:                        | 1999             |
|                                 | Base Year Taxable Value:          | \$ 683,628,290   |
|                                 | Projected Taxable Value (TY2014): | \$ 2,277,843,269 |
|                                 | Current Taxable Value (TY2013):   | \$ 1,999,626,268 |
|                                 | Acres:                            | 838.78           |
|                                 | Administrator (Contact):          | Jamie Brewster   |
|                                 | Contact Number:                   | (713) 524-8000   |

|   |  |
|---|--|
| N<br>A<br>R<br>R<br>A<br>T<br>I<br>V<br>E | <b>Zone Purpose:</b>   |
|   | Tax Increment Reinvestment Zone Number Nineteen, City of Houston, Texas was created to provide plans and programs needed to support an environment attractive to private investment needed to attract residential, commercial and retail development in the Upper Kirby area through the design and construction of roadway and streets, public utility infrastructure, street lighting, pedestrian improvements, parks and real property acquisition. |

| P<br>R<br>O<br>J<br>E<br>C<br>T<br><br>P<br>L<br>A<br>N |   | Total Plan            | Cumulative Expenses<br>(to 6/30/13) | Variance              |
|---|---|-----------------------|-------------------------------------|-----------------------|
|   | Capital Projects:                             |                       |                                     |                       |
|   | Utility System Improvements                   | \$ 49,400,000         | \$ 41,245,076                       | \$ 8,154,924          |
|   | Traffic Mobility Improvements                 | 111,280,000           | 7,919,398                           | 103,360,602           |
|   | Safety and Security Improvements              | 1,600,000             | -                                   | 1,600,000             |
|   | Public Recreation/Public Service Improvements | 85,548,586            | 15,201,045                          | 70,347,541            |
|   |   | -                     | -                                   | -                     |
|   |   | -                     | -                                   | -                     |
|   |   | -                     | -                                   | -                     |
|   |   | -                     | -                                   | -                     |
|   | <b>Total Capital Projects</b>                 | <b>\$ 247,828,586</b> | <b>\$ 64,365,519</b>                | <b>\$ 183,463,067</b> |
|   | Affordable Housing                            | -                     | -                                   | -                     |
|   | School & Education/Cultural Facilities        | 5,572,812             | 4,789,439                           | 783,373               |
|   | Financing Costs                               | 14,600,000            | 8,069,109                           | 6,530,891             |
|   | Administration Costs/ Professional Services   | 3,465,529             | 1,504,909                           | 1,960,620             |
|   | Creation Costs                                | 400,000               | 221,672                             | 178,328               |
|   | <b>Total Project Plan</b>                     | <b>\$ 271,866,927</b> | <b>\$ 78,950,648</b>                | <b>\$ 192,916,279</b> |

| D<br>E<br>B<br>T | Additional Financial Data               | FY2014 Budget                | FY2014 Estimate                        | FY2015 Budget                          |
|------------------|---|------------------------------|--|--|
|                  | Debt Service                            | \$ 1,568,106                 | \$ 1,826,343                           | \$ 2,192,923                           |
|                  | Principal                               | \$ 824,706                   | \$ 958,025                             | \$ 1,004,249                           |
|                  | Interest                                | \$ 743,400                   | \$ 868,318                             | \$ 1,188,674                           |
|                  |   | <b>Balance as of 6/30/13</b> | <b>Projected Balance as of 6/30/14</b> | <b>Projected Balance as of 6/30/15</b> |
|                  | <u>Year End Outstanding (Principal)</u> |                              |  |  |
|                  | Bond Debt                               | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Bank Loan                               | \$ -                         | \$ -                                   | \$ -                                   |
|                  | <u>Line of Credit</u>                   | <b>\$ 19,213,210</b>         | <b>\$ 18,255,185</b>                   | <b>\$ 17,250,936</b>                   |
|                  | Developer Agreement                     | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Other                                   | \$ -                         | \$ -                                   | \$ -                                   |



CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE

Fund Summary  
Fund Name: Upper Kirby Redevelopment Authority  
TIRZ: 19  
Fund Number: 7567/50

| TIRZ Budget Line Items                  | FY2014 Budget        | FY2014 Estimate      | FY2015 Budget        |
|---|----------------------|----------------------|----------------------|
| <b>RESOURCES</b>                        |                      |                      |                      |
| RESTRICTED Funds - Capital Projects     | \$ -                 | \$ -                 | \$ -                 |
| RESTRICTED Funds - Affordable Housing   | \$ -                 | \$ -                 | \$ -                 |
| RESTRICTED Funds - Bond Debt Service    | \$ 352,531           | \$ 392,981           | \$ 917,127           |
| UNRESTRICTED Funds                      | \$ 10,902,141        | \$ 11,929,446        | \$ 13,889,610        |
| <b>Beginning Balance</b>                | <b>\$ 11,254,672</b> | <b>\$ 12,322,427</b> | <b>\$ 14,806,737</b> |
| City tax revenue                        | \$ 8,136,188         | \$ 8,369,908         | \$ 10,139,402        |
| County tax revenue                      | \$ -                 | \$ -                 | \$ -                 |
| ISD tax revenue                         | \$ 1,160,703         | \$ 1,160,703         | \$ 1,160,703         |
| ISD tax revenue - Pass Through          | \$ -                 | \$ -                 | \$ -                 |
| Community College tax revenue           | \$ -                 | \$ -                 | \$ -                 |
| <b>Incremental property tax revenue</b> | <b>\$ 9,296,891</b>  | <b>\$ 9,530,611</b>  | <b>\$ 11,300,105</b> |
|   | \$ -                 | \$ -                 | \$ 190,000           |
| <b>Miscellaneous revenue</b>            | <b>\$ -</b>          | <b>\$ -</b>          | <b>\$ 190,000</b>    |
| COH TIRZ interest                       | \$ -                 | \$ -                 | \$ -                 |
| Interest Income                         | \$ 12,000            | \$ 12,000            | \$ 12,000            |
| <b>Other Interest Income</b>            | <b>\$ 12,000</b>     | <b>\$ 12,000</b>     | <b>\$ 12,000</b>     |
|   | \$ -                 | \$ -                 | \$ -                 |
| Grants                                  | \$ -                 | \$ -                 | \$ 800,000           |
| <b>Grant Proceeds</b>                   | <b>\$ -</b>          | <b>\$ -</b>          | <b>\$ 800,000</b>    |
| Bank Loan                               | \$ 7,000,000         | \$ 3,800,000         | \$ 4,750,000         |
| <b>Proceeds from Bank Loan</b>          | <b>\$ 7,000,000</b>  | <b>\$ 3,800,000</b>  | <b>\$ 4,750,000</b>  |
|   | \$ -                 | \$ -                 | \$ -                 |
| <b>Contract Revenue Bond Proceeds</b>   | <b>\$ -</b>          | <b>\$ -</b>          | <b>\$ -</b>          |
| <b>TOTAL AVAILABLE RESOURCES</b>        | <b>\$ 27,563,563</b> | <b>\$ 25,665,038</b> | <b>\$ 31,858,842</b> |

**CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE**

Fund Summary  
Fund Name: **Upper Kirby Redevelopment Authority**  
TIRZ: **19**  
Fund Number: **7567/50**

| TIRZ Budget Line Items  | FY2014 Budget        | FY2014 Estimate      | FY2015 Budget        |
|---|----------------------|----------------------|----------------------|
| <b>EXPENDITURES</b>   |                      |                      |                      |
| Accounting  | \$ 18,500            | \$ 14,280            | \$ 18,500            |
| Administration Salaries & Benefits                              | \$ 86,000            | \$ 75,480            | \$ 86,000            |
| Auditor   | \$ 8,500             | \$ 8,500             | \$ 8,500             |
| Bond Services/Trustee/Financial Advisor                         | \$ -                 | \$ -                 | \$ -                 |
| Insurance   | \$ 2,900             | \$ 2,887             | \$ 2,900             |
| Office Administration   | \$ 15,500            | \$ 12,200            | \$ 15,500            |
| <b>TIRZ Administration and Overhead</b>                         | <b>\$ 131,400</b>    | <b>\$ 113,347</b>    | <b>\$ 131,400</b>    |
| Engineering Consultants   | \$ -                 | \$ -                 | \$ -                 |
| Legal   | \$ 35,700            | \$ 35,700            | \$ 35,700            |
| Construction Audit  | \$ -                 | \$ -                 | \$ -                 |
| Planning Consultants  | \$ 30,600            | \$ 30,600            | \$ 30,600            |
| <b>Program and Project Consultants</b>                          | <b>\$ 66,300</b>     | <b>\$ 66,300</b>     | <b>\$ 66,300</b>     |
| <b>Management consulting services</b>                           | <b>\$ 197,700</b>    | <b>\$ 179,647</b>    | <b>\$ 197,700</b>    |
| Capital Expenditures (See CIP Schedule)                         | \$ 22,310,000        | \$ 7,566,214         | \$ 23,830,000        |
| <b>TIRZ Capital Expenditures</b>                                | <b>\$ 22,310,000</b> | <b>\$ 7,566,214</b>  | <b>\$ 23,830,000</b> |
|   | \$ -                 | \$ -                 | \$ -                 |
| <b>Developer / Project Reimbursements</b>                       | <b>\$ -</b>          | <b>\$ -</b>          | <b>\$ -</b>          |
| Line of Credit - Regents Bank                                   |                      |                      |                      |
| Convenience Fee   | \$ 45,000            | \$ 62,500            | \$ 45,000            |
| Tax Advance Principal   | \$ 610,925           | \$ -                 | \$ -                 |
| Tax Advance Interest  | \$ 559,840           | \$ -                 | \$ -                 |
| Tax Exempt Advance 1&2 Principal                                | \$ 213,781           | \$ -                 | \$ -                 |
| Tax Exempt Advance 1&2 Interest                                 | \$ 183,560           | \$ -                 | \$ -                 |
| Principal   | \$ -                 | \$ 958,025           | \$ 1,004,249         |
| Interest  | \$ -                 | \$ 868,318           | \$ 1,188,674         |
| <b>System debt service</b>                                      | <b>\$ 1,613,106</b>  | <b>\$ 1,888,843</b>  | <b>\$ 2,237,923</b>  |
| <b>TOTAL PROJECT COSTS</b>                                      | <b>\$ 24,120,806</b> | <b>\$ 9,634,704</b>  | <b>\$ 26,265,623</b> |
| Payment/transfer to ISD - educational facilities                | \$ 388,102           | \$ 388,102           | \$ 388,102           |
| Payment/transfer to ISD - educational facilities (Pass Through) | \$ -                 | \$ -                 | \$ -                 |
| Administration Fees:  |                      |                      |                      |
| City  | \$ 406,809           | \$ 418,495           | \$ 506,970           |
| County  | \$ -                 | \$ -                 | \$ -                 |
| ISD   | \$ 25,000            | \$ 25,000            | \$ 25,000            |
| HCC   | \$ -                 | \$ -                 | \$ -                 |
| Affordable Housing:   |                      |                      |                      |
| City  | \$ -                 | \$ -                 | \$ -                 |
| County  | \$ -                 | \$ -                 | \$ -                 |
| ISD to City of Houston  | \$ -                 | \$ -                 | \$ -                 |
| Municipal Services (Payable to COH)                             | \$ 392,000           | \$ 392,000           | \$ 392,000           |
| <b>Total Transfers</b>  | <b>\$ 1,211,911</b>  | <b>\$ 1,223,597</b>  | <b>\$ 1,312,072</b>  |
| <b>Total Budget</b>   | <b>\$ 25,332,717</b> | <b>\$ 10,858,301</b> | <b>\$ 27,577,695</b> |
| RESTRICTED Funds - Capital Projects                             | \$ -                 | \$ -                 | \$ -                 |
| RESTRICTED Funds - Affordable Housing                           | \$ -                 | \$ -                 | \$ -                 |
| RESTRICTED Funds - Bond Debt Service                            | \$ 352,531           | \$ 917,127           | \$ 1,118,961         |
| UNRESTRICTED Funds  | \$ 1,878,315         | \$ 13,889,610        | \$ 3,162,186         |
| <b>Ending Fund Balance</b>                                      | <b>\$ 2,230,846</b>  | <b>\$ 14,806,737</b> | <b>\$ 4,281,147</b>  |
| <b>Total Budget &amp; Ending Fund Balance</b>                   | <b>\$ 27,563,563</b> | <b>\$ 25,665,038</b> | <b>\$ 31,858,842</b> |

Notes:

| Council District | CIP No. | Project   | Fiscal Year Planned Appropriations |                |               |               |               |               |               |               | FY15- FY19 Total | Cumulative Total (To Date) |
|------------------|---------|---|------------------------------------|----------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|----------------------------|
|                  |         |   | Through 2013                       | Projected 2014 | 2015          | 2016          | 2017          | 2018          | 2019          |               |                  |                            |
| C, G             | T-1902  | Traffic Operational Improvements                  | \$ 38,094                          | -              | -             | -             | -             | 200,000       | 200,000       | 400,000       | 438,094          |                            |
| C, G             | T-1903  | Richmond/Weslayan Intersection Improvements       | \$ -                               | -              | -             | -             | -             | -             | 245,000       | 245,000       | 245,000          |                            |
| C, G             | T-1904  | Buffalo Speedway Reconstruction - US 59 to        | \$ 6,717,344                       | -              | -             | -             | -             | -             | -             | -             | 6,717,344        |                            |
| C, G             | T-1905  | Wakeforest Reconstruction Richmond to US 59       | \$ 1,372,060                       | -              | -             | -             | -             | -             | -             | -             | 1,372,060        |                            |
| C, G             | T-1907  | Pedestrian Accessibility                          | \$ 72,423                          | -              | 10,000        | 10,000        | 10,000        | 10,000        | 10,000        | 50,000        | 122,423          |                            |
| C, G             | T-1909  | Kirby Dr. Improvements - San Felipe to Westheimer | \$ 94,861                          | -              | -             | -             | -             | -             | 10,000        | 10,000        | 104,861          |                            |
| C, G             | T-1910  | Kirby Dr. Paving & Drainage - US59 to Richmond    | \$ 7,948,205                       | -              | -             | -             | -             | -             | -             | -             | 7,948,205        |                            |
| C, G             | T-1911  | Kirby Drive Paving and Drainage Improvements      | \$ 22,122,524                      | -              | -             | -             | -             | -             | -             | -             | 22,122,524       |                            |
| C, G             | T-1912A | Westheimer Drainage System Improvements           | \$ 1,366,030                       | 5,451,401      | 8,930,000     | 8,110,000     | 1,000,000     | -             | -             | 18,040,000    | 24,857,431       |                            |
| C, G             | T-1912B | Richmond Avenue Drainage System Improvements      | \$ 6,232,267                       | 208,950        | -             | -             | -             | -             | -             | -             | 6,441,217        |                            |
| C, G             | T-1913  | Greenbriar Drainage System Improvements           | \$ 478,610                         | -              | -             | -             | 300,000       | 3,740,000     | 8,070,000     | 12,110,000    | 12,588,610       |                            |
| C, G             | T-1914  | Shepherd Drainage System Improvements             | \$ 359,632                         | -              | 680,000       | 4,750,000     | 7,520,000     | -             | -             | 12,950,000    | 13,309,632       |                            |
| C, G             | T-1915  | University Line Urban Corridor Improvements       | \$ 744                             | -              | 20,000        | 20,000        | -             | -             | -             | 40,000        | 40,744           |                            |
| C, G             | T-1916  | Upper Kirby Wayfinding                            | \$ 15,011                          | -              | -             | -             | -             | -             | -             | -             | 15,011           |                            |
| C, G             | T-1917  | Upper Kirby Civic Complex                         | \$ 14,381,086                      | 1,447,618      | 7,650,000     | 5,449,604     | -             | -             | -             | 13,099,604    | 28,928,308       |                            |
| C, G             | T-1918  | Buffalo Speedway Improvements                     | \$ 276,518                         | 2,832          | -             | -             | -             | -             | 10,000        | 10,000        | 289,350          |                            |
| C, G             | T-1919  | Westpark Improvements - Kirby to Edloe            | \$ 64,560                          | -              | -             | -             | -             | -             | 10,000        | 10,000        | 74,560           |                            |
| C, G             | T-1920  | West Alabama Reconstruction                       | \$ 73,780                          | 1,115          | -             | -             | 870,000       | 8,150,000     | 6,650,000     | 15,670,000    | 15,744,895       |                            |
| C, G             | T-1921  | Edloe Reconstruction                              | \$ 17,679                          | -              | -             | -             | -             | -             | 10,000        | 10,000        | 27,679           |                            |
| C, G             | T-1922  | Bissonnet Reconstruction                          | \$ 234,085                         | 404,299        | 5,850,000     | 7,570,000     | -             | -             | -             | 13,420,000    | 14,058,384       |                            |
| C, G             | T-1923  | US 59 Underpass Improvements                      | \$ -                               | -              | -             | -             | -             | -             | 10,000        | 10,000        | 10,000           |                            |
| C, G             | T-1924  | Eastside Reconstruction                           | \$ 55,218                          | -              | 650,000       | 2,035,000     | 4,800,000     | -             | -             | 7,485,000     | 7,540,218        |                            |
| C, G             | T-1925  | Public Art  | \$ 250,000                         | 50,000         | 40,000        | 47,000        | 26,000        | 21,000        | 26,000        | 180,000       | 460,000          |                            |
| Totals           |         |   | \$ 62,170,731                      | \$ 7,566,214   | \$ 23,830,000 | \$ 27,991,604 | \$ 14,526,000 | \$ 12,121,000 | \$ 15,251,000 | \$ 93,719,604 | \$ 163,456,549   |                            |

\* NOTE:

\*\* NOTE:

\*\*\* NOTE:

| Source of Funds | Fiscal Year Planned Appropriations |                |            |            |            |            |            |                      | Cumulative<br>Total<br>(To Date) |
|-----------------|------------------------------------|----------------|------------|------------|------------|------------|------------|----------------------|----------------------------------|
|                 | Through 2013                       | Projected 2014 | 2015       | 2016       | 2017       | 2018       | 2019       | FY15 - FY19<br>Total |                                  |
| TIRZ Funds      | 42,739,747                         | 3,766,214      | 18,090,000 | 7,091,604  | 4,676,000  | 7,421,000  | 8,701,000  | 45,979,604           | 92,485,565                       |
| City of Houston | -                                  | -              | 190,000    | 400,000    | -          | -          | -          | 590,000              | 590,000                          |
| Grants          | 2,000,000                          | -              | 800,000    | 2,450,000  | 5,100,000  | 900,000    | 1,800,000  | 11,050,000           | 13,050,000                       |
| Other           | 17,430,984                         | 3,800,000      | 4,750,000  | 18,050,000 | 4,750,000  | 3,800,000  | 4,750,000  | 36,100,000           | 57,330,984                       |
| Project Total   | 62,170,731                         | 7,566,214      | 23,830,000 | 27,991,604 | 14,526,000 | 12,121,000 | 15,251,000 | 93,719,604           | 163,456,549                      |

| Project:     |  | Traffic Operational Improvements                |  |                | City Council District |      | Key Map: |               | 492 |        | WBS.: |      | T-1902 |       |  |
|--------------|--|---|--|----------------|-----------------------|------|----------|---------------|-----|--------|-------|------|--------|-------|--|
|              |  |   |  | Location:      |                       | C, G |          | Geo. Ref.:    |     |        |       |      |        |       |  |
|              |  |   |  | Served:        |                       | C, G |          | Neighborhood: |     | 87, 23 |       |      |        |       |  |
| Description: |  | Operating and Maintenance Costs: (\$ Thousands) |  |                |                       |      |          |               |     |        |       |      |        |       |  |
|              |  |   |  | 2014           |                       | 2015 |          | 2016          |     | 2017   |       | 2018 |        | Total |  |
|              |  |   |  | Personnel      |                       | -    |          | -             |     | -      |       | -    |        | \$    |  |
|              |  |   |  | Supplies       |                       | -    |          | -             |     | -      |       | -    |        | \$    |  |
|              |  |   |  | Svcs. & Chgs.  |                       | -    |          | -             |     | -      |       | -    |        | \$    |  |
|              |  |   |  | Capital Outlay |                       | -    |          | -             |     | -      |       | -    |        | \$    |  |
|              |  |   |  | Total          |                       | \$   |          | -             |     | \$     |       | -    |        | \$    |  |
|              |  |   |  | FTEs           |                       |      |          |               |     |        |       |      |        | -     |  |

| Fiscal Year Planned Expenses |  |                                 |  |             |  |               |  |      |  |         |  |      |  |         |  |      |  |                   |  |                            |  |
|------------------------------|--|---------------------------------|--|-------------|--|---------------|--|------|--|---------|--|------|--|---------|--|------|--|-------------------|--|----------------------------|--|
| Project Allocation           |  | Projected Expenses thru 6/30/13 |  | 2014 Budget |  | 2014 Estimate |  | 2015 |  | 2016    |  | 2017 |  | 2018    |  | 2019 |  | FY15 - FY19 Total |  | Cumulative Total (To Date) |  |
| Phase                        |  |                                 |  |             |  |               |  |      |  |         |  |      |  |         |  |      |  |                   |  |                            |  |
| 1 Planning                   |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
| 2 Acquisition                |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
| 3 Design                     |  | 38,094                          |  | -           |  | -             |  | -    |  | 200,000 |  | -    |  | 60,000  |  | -    |  | \$                |  | \$ 298,094                 |  |
| 4 Construction               |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | 100,000 |  | -    |  | \$                |  | \$ 100,000                 |  |
| 5 Equipment                  |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
| 6 Close-Out                  |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
| 7 Other                      |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | 40,000  |  | -    |  | \$                |  | \$ 40,000                  |  |
|                              |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
|                              |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
|                              |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
|                              |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
|                              |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | -       |  | -    |  | \$                |  | \$                         |  |
| Other Sub-Total:             |  | -                               |  | -           |  | -             |  | -    |  | -       |  | -    |  | 40,000  |  | -    |  | \$                |  | \$ 40,000                  |  |

|                   |  |    |        |    |   |    |   |    |   |    |         |    |         |    |         |    |         |
|-------------------|--|----|--------|----|---|----|---|----|---|----|---------|----|---------|----|---------|----|---------|
| Total Allocations |  | \$ | 38,094 | \$ | - | \$ | - | \$ | - | \$ | 200,000 | \$ | 200,000 | \$ | 400,000 | \$ | 438,094 |
|-------------------|--|----|--------|----|---|----|---|----|---|----|---------|----|---------|----|---------|----|---------|

|                 |  |        |        |    |   |    |   |    |   |         |         |         |         |         |         |    |         |            |         |    |  |
|-----------------|--|--------|--------|----|---|----|---|----|---|---------|---------|---------|---------|---------|---------|----|---------|------------|---------|----|--|
| Source of Funds |  |        |        |    |   |    |   |    |   |         |         |         |         |         |         |    |         |            |         |    |  |
| TIRZ Funds      |  | 38,094 |        | -  |   | -  |   | -  |   | 200,000 |         | 200,000 |         | 400,000 |         | \$ |         | \$ 438,094 |         |    |  |
| City of Houston |  |        |        | -  |   | -  |   | -  |   | -       |         | -       |         | -       |         | \$ |         | \$         |         |    |  |
| Grant           |  | -      |        | -  |   | -  |   | -  |   | -       |         | -       |         | -       |         | \$ |         | \$         |         |    |  |
| Other           |  | -      |        | -  |   | -  |   | -  |   | -       |         | -       |         | -       |         | \$ |         | \$         |         |    |  |
| Total Funds     |  | \$     | 38,094 | \$ | - | \$ | - | \$ | - | \$      | 200,000 | \$      | 200,000 | \$      | 400,000 | \$ | 438,094 | \$         | 438,094 | \$ |  |

| Project:                     |  | Richmond/Weslayan Intersection Improvements     |  |             |  | City Council District |  | Key Map: |  | 492           |  | WBS.: |  | T-1903 |  |         |  |                   |  |                            |  |
|------------------------------|--|---|--|-------------|--|-----------------------|--|----------|--|---------------|--|-------|--|--------|--|---------|--|-------------------|--|----------------------------|--|
|                              |  |   |  |             |  | Location:             |  | C, G     |  |               |  |       |  |        |  |         |  |                   |  |                            |  |
|                              |  |   |  |             |  | Served:               |  | C, G     |  | Neighborhood: |  | 87    |  |        |  |         |  |                   |  |                            |  |
| Description:                 |  | Operating and Maintenance Costs: (\$ Thousands) |  |             |  |                       |  |          |  |               |  |       |  |        |  |         |  |                   |  |                            |  |
|                              |  |   |  |             |  | 2014                  |  | 2015     |  | 2016          |  | 2017  |  | 2018   |  | Total   |  |                   |  |                            |  |
|                              |  |   |  |             |  | Personnel             |  | -        |  | -             |  | -     |  | -      |  | \$ -    |  |                   |  |                            |  |
|                              |  |   |  |             |  | Supplies              |  | -        |  | -             |  | -     |  | -      |  | \$ -    |  |                   |  |                            |  |
|                              |  |   |  |             |  | Svcs. & Chgs.         |  | -        |  | -             |  | -     |  | -      |  | \$ -    |  |                   |  |                            |  |
|                              |  |   |  |             |  | Capital Outlay        |  | -        |  | -             |  | -     |  | -      |  | \$ -    |  |                   |  |                            |  |
|                              |  |   |  |             |  | Total                 |  | \$ -     |  | \$ -          |  | \$ -  |  | \$ -   |  | \$ -    |  |                   |  |                            |  |
|                              |  |   |  |             |  | FTEs                  |  |          |  |               |  |       |  |        |  | -       |  |                   |  |                            |  |
| Fiscal Year Planned Expenses |  |   |  |             |  |                       |  |          |  |               |  |       |  |        |  |         |  |                   |  |                            |  |
| Project Allocation           |  | Projected Expenses thru 6/30/13                 |  | 2014 Budget |  | 2014 Estimate         |  | 2015     |  | 2016          |  | 2017  |  | 2018   |  | 2019    |  | FY15 - FY19 Total |  | Cumulative Total (To Date) |  |
| 1 Planning                   |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| 2 Acquisition                |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | 50,000  |  | \$ 50,000         |  | \$ 50,000                  |  |
| 3 Design                     |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | 12,000  |  | \$ 12,000         |  | \$ 12,000                  |  |
| 4 Construction               |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | 150,000 |  | \$ 150,000        |  | \$ 150,000                 |  |
| 5 Equipment                  |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| 6 Close-Out                  |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| 7 Other                      |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | 33,000  |  | \$ 33,000         |  | \$ 33,000                  |  |
|                              |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
|                              |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
|                              |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
|                              |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
|                              |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| Other Sub-Total:             |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | 33,000  |  | \$ 33,000         |  | \$ 33,000                  |  |
|                              |  |   |  |             |  |                       |  |          |  |               |  |       |  |        |  |         |  |                   |  |                            |  |
| Total Allocations            |  | \$ -  |  | \$ -        |  | \$ -                  |  | \$ -     |  | \$ -          |  | \$ -  |  | \$ -   |  | 245,000 |  | \$ 245,000        |  | \$ 245,000                 |  |
|                              |  |   |  |             |  |                       |  |          |  |               |  |       |  |        |  |         |  |                   |  |                            |  |
| Source of Funds              |  |   |  |             |  |                       |  |          |  |               |  |       |  |        |  | 245,000 |  | \$ 245,000        |  | \$ 245,000                 |  |
| TIRZ Funds                   |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| City of Houston              |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| Grants                       |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| Other                        |  | -   |  | -           |  | -                     |  | -        |  | -             |  | -     |  | -      |  | -       |  | \$ -              |  | \$ -                       |  |
| Total Funds                  |  | \$ -  |  | \$ -        |  | \$ -                  |  | \$ -     |  | \$ -          |  | \$ -  |  | \$ -   |  | 245,000 |  | \$ 245,000        |  | \$ 245,000                 |  |

| Project: Pedestrian Accessibility               |  | City Council District |               | Key Map:      |        | WBS.:  |        | T-1907 |                   |
|---|--|-----------------------|---------------|---------------|--------|--------|--------|--------|-------------------|
| Location:                                       |  | C. G                  |               | Geo. Ref.:    |        |        |        |        |                   |
| Served:   |  | C. G                  |               | Neighborhood: |        | 87     |        |        |                   |
| Operating and Maintenance Costs: (\$ Thousands) |  | 2014                  |               | 2015          |        | 2016   |        | 2017   |                   |
| Description:                                    | 18 Ped Signals, 37 Push Buttons, 47 Ramps, 32 Sidewalk Pads on Bissonnet, Westpark, US 59/Service Road, Richmond, W. Alabama, Buffalo Speedway, Eastside and Wakeforest. |                       |               |               |        |        |        |        |                   |
|   |  | Personnel             | -             | -             | -      | -      | -      | -      | -                 |
|   |  | Supplies              | -             | -             | -      | -      | -      | -      | -                 |
|   |  | Svcs. & Chgs.         | -             | -             | -      | -      | -      | -      | -                 |
|   |  | Capital Outlay        | -             | -             | -      | -      | -      | -      | -                 |
| Justification:                                  | Improvements will increase pedestrian safety, mobility, and accessibility.   | Total                 | \$            | -             | \$     | -      | \$     | -      | \$                |
|   |  | FTEs                  |               |               |        |        |        |        |                   |
| Fiscal Year Planned Expenses                    |  |                       |               |               |        |        |        |        |                   |
| Project Allocation                              | Projected Expenses thru 6/30/13  | 2014 Budget           | 2014 Estimate | 2015          | 2016   | 2017   | 2018   | 2019   | FY15 - FY19 Total |
| Phase   |  |                       |               |               |        |        |        |        |                   |
| 1 Planning                                      | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| 2 Acquisition                                   | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| 3 Design  | 60,063   | 10,000                | 10,000        | 10,000        | 10,000 | 10,000 | 10,000 | 10,000 | \$ 50,000         |
| 4 Construction                                  | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| 5 Equipment                                     | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| 6 Close-Out                                     | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| 7 Other   | 12,360   | -                     | -             | -             | -      | -      | -      | -      | \$ 12,360         |
| Other Sub-Total:                                | 12,360   | -                     | -             | -             | -      | -      | -      | -      | \$ 12,360         |
| Total Allocations                               |  |                       |               |               |        |        |        |        |                   |
|   | \$   | 72,423                | \$            | -             | \$     | 10,000 | \$     | 10,000 | \$ 50,000         |
| Total Allocations                               |  |                       |               |               |        |        |        |        |                   |
|   | \$   | 72,423                | \$            | -             | \$     | 10,000 | \$     | 10,000 | \$ 122,423        |
| Source of Funds                                 |  |                       |               |               |        |        |        |        |                   |
| TIRZ Funds                                      | 72,423   | -                     | -             | 10,000        | 10,000 | 10,000 | 10,000 | 10,000 | \$ 50,000         |
| City of Houston                                 | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| Grants  | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| Other   | -  | -                     | -             | -             | -      | -      | -      | -      | \$                |
| Total Funds                                     | \$   | 72,423                | \$            | -             | \$     | 10,000 | \$     | 10,000 | \$ 50,000         |
| Total Funds                                     |  |                       |               |               |        |        |        |        |                   |
|   | \$   | 72,423                | \$            | -             | \$     | 10,000 | \$     | 10,000 | \$ 122,423        |

\*NOTE:

| Project: |  | Kirby Dr. Improvements - San Felipe to Westheimer |  |  |  | City Council District |  | Key Map: |  | 492 |  | WBS.:      |  | T-1909 |  |
|----------|--|---|--|--|--|-----------------------|--|----------|--|-----|--|------------|--|--------|--|
|          |  |   |  |  |  | Location:             |  | C, G     |  |     |  | Geo. Ref.: |  |        |  |
|          |  |   |  |  |  | Served:               |  | C, G     |  | 87  |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  |                       |  |          |  |     |  |            |  |        |  |
|          |  |   |  |  |  | </                    |  |          |  |     |  |            |  |        |  |



**NOTE:**

| Project: |  | Greenbriar Drainage System Improvements |  |  |  | City Council District |  | Key Map:      |  | WBS.: |  | T-1913 |  |
|----------|--|---|--|--|--|-----------------------|--|---------------|--|-------|--|--------|--|
|          |  |   |  |  |  | Location:             |  | Geo. Ref.:    |  |       |  |        |  |
|          |  |   |  |  |  | Served:               |  | Neighborhood: |  |       |  |        |  |
|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
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|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
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|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
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|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
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|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
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|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
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|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |
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|          |  |   |  |  |  |                       |  |               |  |       |  |        |  |

| Project: |  | Shepherd Drainage System Improvements |  |  |  | City Council District |  | Key Map:      |  | 492 |  | WBS.: |  | T-1914 |  |
|----------|--|---------------------------------------|--|--|--|-----------------------|--|---------------|--|-----|--|-------|--|--------|--|
|          |  |                                       |  |  |  | Location:             |  | Geo. Ref.:    |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  | Served:               |  | Neighborhood: |  | 87  |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
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|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
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|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
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|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
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|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
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|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
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|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |
|          |  |                                       |  |  |  |                       |  |               |  |     |  |       |  |        |  |

| Project:                     |  | University Line Urban Corridor Improvements     |      |             |        | City Council District |      | Key Map:      |        | WBS.:  |        | T-1915 |      |      |   |      |   |                   |        |                            |        |  |  |
|------------------------------|--|---|------|-------------|--------|-----------------------|------|---------------|--------|--------|--------|--------|------|------|---|------|---|-------------------|--------|----------------------------|--------|--|--|
|                              |  |   |      |             |        | Location:             |      | Geo. Ref.:    |        |        |        |        |      |      |   |      |   |                   |        |                            |        |  |  |
|                              |  |   |      |             |        | Served:               |      | Neighborhood: |        | 87     |        |        |      |      |   |      |   |                   |        |                            |        |  |  |
| Description:                 |  | Operating and Maintenance Costs: (\$ Thousands) |      |             |        |                       |      |               |        |        |        |        |      |      |   |      |   |                   |        |                            |        |  |  |
|                              |  | 2014  |      | 2015        |        | 2016                  |      | 2017          |        | 2018   |        | Total  |      |      |   |      |   |                   |        |                            |        |  |  |
| Justification:               | Urban Corridor Study recommended improvements along Richmond Avenue from Shepherd to Wesleyan. | Personnel                                       | -    | -           | -      | -                     | -    | -             | -      | -      | -      | -      | \$ - |      |   |      |   |                   |        |                            |        |  |  |
|                              |  | Supplies  | -    | -           | -      | -                     | -    | -             | -      | -      | -      | -      | \$ - |      |   |      |   |                   |        |                            |        |  |  |
|                              |  | Svcs. & Chgs.                                   | -    | -           | -      | -                     | -    | -             | -      | -      | -      | -      | \$ - |      |   |      |   |                   |        |                            |        |  |  |
|                              |  | Capital Outlay                                  | -    | -           | -      | -                     | -    | -             | -      | -      | -      | -      | \$ - |      |   |      |   |                   |        |                            |        |  |  |
|                              |  | Total   | \$ - | \$ -        | \$ -   | \$ -                  | \$ - | \$ -          | \$ -   | \$ -   | \$ -   | \$ -   | \$ - |      |   |      |   |                   |        |                            |        |  |  |
|                              |  | FTEs  |      |             |        |                       |      |               |        |        |        |        |      |      |   |      |   |                   |        |                            |        |  |  |
| Fiscal Year Planned Expenses |  |   |      |             |        |                       |      |               |        |        |        |        |      |      |   |      |   |                   |        |                            |        |  |  |
| Project Allocation           |  | Projected Expenses thru 6/30/13                 |      | 2014 Budget |        | 2014 Estimate         |      | 2015          |        | 2016   |        | 2017   |      | 2018 |   | 2019 |   | FY15 - FY19 Total |        | Cumulative Total (To Date) |        |  |  |
| Phase                        | 1 Planning   | 744   |      | 10,000      |        | -                     |      | 10,000        |        | 10,000 |        |        |      |      |   |      |   | \$ 20,000         |        | \$ 20,744                  |        |  |  |
|                              | 2 Acquisition  |   |      | -           |        | -                     |      | -             |        | -      |        |        |      |      |   |      |   | \$ -              |        | \$ -                       |        |  |  |
|                              | 3 Design   |   |      | -           |        | -                     |      | -             |        | -      |        |        |      |      |   |      |   | \$ -              |        | \$ -                       |        |  |  |
|                              | 4 Construction   |   |      | -           |        | -                     |      | -             |        | -      |        |        |      |      |   |      |   | \$ -              |        | \$ -                       |        |  |  |
|                              | 5 Equipment  |   |      | -           |        | -                     |      | -             |        | -      |        |        |      |      |   |      |   | \$ -              |        | \$ -                       |        |  |  |
|                              | 6 Close-Out  |   |      | -           |        | -                     |      | -             |        | -      |        |        |      |      |   |      |   | \$ -              |        | \$ -                       |        |  |  |
|                              | 7 Other  |   |      | 10,000      |        | -                     |      | 10,000        |        | 10,000 |        |        |      |      |   |      |   | \$ 20,000         |        | \$ 20,000                  |        |  |  |
| Other Sub-Total:             |  | -   |      | 10,000      |        | -                     |      | 10,000        |        | 10,000 |        | -      |      | -    |   | -    |   | \$ 20,000         |        | \$ 20,000                  |        |  |  |
| Total Allocations            |  | \$  | 744  | \$          | 20,000 | \$                    | -    | \$            | 20,000 | \$     | 20,000 | \$     | -    | \$   | - | \$   | - | \$                | 40,000 | \$                         | 40,744 |  |  |
| Source of Funds              |  |   |      |             |        |                       |      |               |        |        |        |        |      |      |   |      |   |                   |        |                            |        |  |  |
| TIRZ Funds                   |  | 744   |      | 60,000      |        | -                     |      | 20,000        |        | 20,000 |        | -      |      | -    |   | -    |   | \$ 40,000         |        | \$ 40,744                  |        |  |  |
| City of Houston              |  | -   |      | -           |        | -                     |      | -             |        | -      |        | -      |      | -    |   | -    |   | \$ -              |        | \$ -                       |        |  |  |
| Grants                       |  | -   |      | -           |        | -                     |      | -             |        | -      |        | -      |      | -    |   | -    |   | \$ -              |        | \$ -                       |        |  |  |
| Other                        |  | -   |      | -           |        | -                     |      | -             |        | -      |        | -      |      | -    |   | -    |   | \$ -              |        | \$ -                       |        |  |  |
| Total Funds                  |  | \$  | 744  | \$          | 60,000 | \$                    | -    | \$            | 20,000 | \$     | 20,000 | \$     | -    | \$   | - | \$   | - | \$                | 40,000 | \$                         | 40,744 |  |  |

\*NOTE:

| Project: | Upper Kirby Civic Complex | City Council District |      | Key Map:      |        | WBS.: |  |  | T-1917 |
|----------|---------------------------|-----------------------|------|---------------|--------|-------|--|--|--------|
|          |                           | Location:             | C, G | Geo. Ref.:    |        |       |  |  |        |
|          |                           | Served:               | C, G | Neighborhood: | 87, 23 |       |  |  |        |

| Description:   | The proposed complex will reorient Levy Park from a north-south alignment to an east-west alignment providing visibility and accessibility from two streets and will provide Houston's inner city urban neighborhoods with expanded recreational opportunities for all ages. | Operating and Maintenance Costs: (\$ Thousands) |      |      |      |      |       |    |    |
|----------------|--|---|------|------|------|------|-------|----|----|
|                |  | 2014  | 2015 | 2016 | 2017 | 2018 | Total |    |    |
| Justification: | This signature park will provide the UK District and surrounding neighborhoods with a much needed recreational area in the community where families and individuals can congregate and have a relaxing atmosphere.   | Personnel                                       | -    | -    | -    | -    | -     | \$ |    |
|                |  | Supplies  | -    | -    | -    | -    | -     | \$ |    |
|                |  | Svcs. & Chgs.                                   | -    | -    | -    | -    | -     | \$ |    |
|                |  | Capital Outlay                                  | -    | -    | -    | -    | -     | \$ |    |
|                |  | Total   | \$   | -    | \$   | -    | \$    | -  | \$ |
| FTEs           |  |   |      |      |      |      |       |    |    |

| Fiscal Year Planned Expenses |                                 |             |               |           |           |      |      |      |                   |                            |
|------------------------------|---------------------------------|-------------|---------------|-----------|-----------|------|------|------|-------------------|----------------------------|
| Project Allocation           | Projected Expenses thru 6/30/13 | 2014 Budget | 2014 Estimate | 2015      | 2016      | 2017 | 2018 | 2019 | FY15 - FY19 Total | Cumulative Total (To Date) |
| Phase                        |                                 |             |               |           |           |      |      |      |                   |                            |
| 1 Planning                   | 75,188                          | -           | -             | -         | -         | -    | -    | -    | \$                | \$ 75,188                  |
| 2 Acquisition                | 13,616,778                      | 7,000,000   | 108,578       | -         | -         | -    | -    | -    | \$                | \$ 13,725,356              |
| 3 Design                     | 197,079                         | 650,000     | 603,588       | 200,000   | 149,604   | -    | -    | -    | \$                | \$ 349,604                 |
| 4 Construction               | -                               | -           | 400,000       | 7,000,000 | 4,800,000 | -    | -    | -    | \$                | \$ 11,800,000              |
| 5 Equipment                  | -                               | -           | -             | -         | -         | -    | -    | -    | \$                | \$ -                       |
| 6 Close-Out                  | -                               | -           | -             | -         | -         | -    | -    | -    | \$                | \$ -                       |
| 7 Other                      | 492,041                         | 100,000     | 335,452       | 450,000   | 500,000   | -    | -    | -    | \$                | \$ 1,777,493               |
|                              | -                               | -           | -             | -         | -         | -    | -    | -    | \$                | \$ -                       |
|                              | -                               | -           | -             | -         | -         | -    | -    | -    | \$                | \$ -                       |
|                              | -                               | -           | -             | -         | -         | -    | -    | -    | \$                | \$ -                       |
|                              | -                               | -           | -             | -         | -         | -    | -    | -    | \$                | \$ -                       |
| Other Sub-Total:             | 492,041                         | 100,000     | 335,452       | 450,000   | 500,000   | -    | -    | -    | \$                | \$ 1,777,493               |

| Total Allocations | \$ 14,381,086 | \$ 7,750,000 | \$ 1,447,618 | \$ 7,650,000 | \$ 5,449,604 | \$ | - | \$ | - | \$ | 28,928,308 |
|-------------------|---------------|--------------|--------------|--------------|--------------|----|---|----|---|----|------------|
|-------------------|---------------|--------------|--------------|--------------|--------------|----|---|----|---|----|------------|

| Source of Funds |               |              |              |              |              |    |   |    |    |               |               |
|-----------------|---------------|--------------|--------------|--------------|--------------|----|---|----|----|---------------|---------------|
| TIRZ Funds      | 8,256,102     | 750,000      | 1,447,618    | 6,850,000    | 1,324,604    | -  | - | -  | \$ | 8,174,604     | \$ 17,878,324 |
| City of Houston | -             | -            | -            | -            | -            | -  | - | -  | \$ | -             | \$ -          |
| Grants          | -             | -            | -            | 800,000      | 800,000      | -  | - | -  | \$ | 1,600,000     | \$ 1,600,000  |
| Other           | 6,124,984     | 7,000,000    | -            | -            | 3,325,000    | -  | - | -  | \$ | 3,325,000     | \$ 9,449,984  |
| Total Funds     | \$ 14,381,086 | \$ 7,750,000 | \$ 1,447,618 | \$ 7,650,000 | \$ 5,449,604 | \$ | - | \$ | -  | \$ 13,099,604 | \$ 28,928,308 |

\*NOTE:

**\*NOTE:**



**\*NOTE:**

| Project:                     | West Alabama Reconstruction<br>Buffalo Speedway to Shepherd  | City Council District                           |             | Key Map:      |      | WBS.: |            | T-1920       |              |                   |                            |
|------------------------------|--|---|-------------|---------------|------|-------|------------|--------------|--------------|-------------------|----------------------------|
|                              |  | Location:                                       |             | Geo. Ref.:    |      |       |            |              |              |                   |                            |
|                              |  | Served:   |             | Neighborhood: |      | 87    |            |              |              |                   |                            |
| Description:                 | Project provides for the engineering and reconstruction of existing roadway with concrete paving, curbs, sidewalks, street lighting and underground utilities as needed. | Operating and Maintenance Costs: (\$ Thousands) |             |               |      |       |            |              |              |                   |                            |
|                              |  | 2014  | 2015        | 2016          | 2017 | 2018  | Total      |              |              |                   |                            |
| Justification:               | Project will reconstruct a street that has deteriorated beyond economic repair and normal maintenance.   | Personnel                                       | -           | -             | -    | -     | -          | \$           | -            |                   |                            |
|                              |  | Supplies  | -           | -             | -    | -     | -          | -            | \$           | -                 |                            |
|                              |  | Svcs. & Chgs.                                   | -           | -             | -    | -     | -          | -            | \$           | -                 |                            |
|                              |  | Capital Outlay                                  | -           | -             | -    | -     | -          | -            | \$           | -                 |                            |
|                              |  | Total   | \$          | -             | \$   | -     | \$         | -            | \$           | -                 |                            |
|                              |  | FTEs  |             |               |      |       |            |              | -            |                   |                            |
| Fiscal Year Planned Expenses |  |   |             |               |      |       |            |              |              |                   |                            |
| Project Allocation           |  | Projected Expenses thru 6/30/13                 | 2014 Budget | 2014 Estimate | 2015 | 2016  | 2017       | 2018         | 2019         | FY15 - FY19 Total | Cumulative Total (To Date) |
| Phase                        | 1 Planning   | -   | -           | -             | -    | -     | -          | -            | -            | \$                | \$                         |
|                              | 2 Acquisition  | -   | -           | -             | -    | -     | -          | -            | -            | \$                | \$                         |
|                              | 3 Design   | 73,780  | -           | 1,115         | -    | -     | 800,000    | 700,000      | 200,000      | \$                | 1,774,895                  |
|                              | 4 Construction   | -   | -           | -             | -    | -     | -          | 7,000,000    | 6,000,000    | \$                | 13,000,000                 |
|                              | 5 Equipment  | -   | -           | -             | -    | -     | -          | -            | -            | \$                | \$                         |
|                              | 6 Close-Out  | -   | -           | -             | -    | -     | -          | -            | -            | \$                | \$                         |
|                              | 7 Other  | -   | -           | -             | -    | -     | -          | -            | -            | \$                | \$                         |
| Other Sub-Total:             |  | -   | -           | -             | -    | -     | 70,000     | 450,000      | 450,000      | \$                | 970,000                    |
| Total Allocations            |  | \$ 73,780                                       | \$ -        | \$ 1,115      | \$ - | \$ -  | \$ 870,000 | \$ 8,150,000 | \$ 6,650,000 | \$                | 15,744,895                 |
| Source of Funds              |  |   |             |               |      |       |            |              |              |                   |                            |
| TIRZ Funds                   |  | 73,780  | -           | 1,115         | -    | -     | 95,000     | 4,050,000    | 5,050,000    | \$                | 9,269,895                  |
| City of Houston              |  | -   | -           | -             | -    | -     | -          | -            | -            | \$                | \$                         |
| Grants                       |  | -   | -           | -             | -    | -     | -          | 900,000      | 900,000      | \$                | 1,800,000                  |
| Other                        |  | -   | -           | -             | -    | -     | 775,000    | 3,200,000    | 700,000      | \$                | 4,675,000                  |
| Total Funds                  |  | \$ 73,780                                       | \$ -        | \$ 1,115      | \$ - | \$ -  | \$ 870,000 | \$ 8,150,000 | \$ 6,650,000 | \$                | 15,744,895                 |

\*NOTE:



| Project:                     |  | Edloe Reconstruction<br>US 59 to Bissonnet      |  | City Council District |  | Key Map:      |  | WBS.: |  | T-1921 |  |      |  |       |  |        |  |                   |  |                            |  |
|------------------------------|--|---|--|-----------------------|--|---------------|--|-------|--|--------|--|------|--|-------|--|--------|--|-------------------|--|----------------------------|--|
|                              |  |   |  | Location:<br>C, G     |  | Geo. Ref.:    |  |       |  |        |  |      |  |       |  |        |  |                   |  |                            |  |
|                              |  |   |  | Served:<br>C, G       |  | Neighborhood: |  | 87    |  |        |  |      |  |       |  |        |  |                   |  |                            |  |
| Description:                 |  | Operating and Maintenance Costs: (\$ Thousands) |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  |                            |  |
|                              |  |   |  | 2014                  |  | 2015          |  | 2016  |  | 2017   |  | 2018 |  | Total |  |        |  |                   |  |                            |  |
|                              |  | Personnel                                       |  |                       |  |               |  |       |  |        |  |      |  | \$    |  |        |  |                   |  |                            |  |
|                              |  | Supplies  |  |                       |  |               |  |       |  |        |  |      |  | \$    |  |        |  |                   |  |                            |  |
|                              |  | Svcs. & Chgs.                                   |  |                       |  |               |  |       |  |        |  |      |  | \$    |  |        |  |                   |  |                            |  |
|                              |  | Capital Outlay                                  |  |                       |  |               |  |       |  |        |  |      |  | \$    |  |        |  |                   |  |                            |  |
|                              |  | Total   |  | \$                    |  | -             |  | \$    |  | -      |  | \$   |  | \$    |  |        |  |                   |  |                            |  |
|                              |  | FTEs  |  |                       |  |               |  |       |  |        |  |      |  | -     |  |        |  |                   |  |                            |  |
| Fiscal Year Planned Expenses |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  |                            |  |
| Project Allocation           |  | Projected Expenses thru 6/30/13                 |  | 2014 Budget           |  | 2014 Estimate |  | 2015  |  | 2016   |  | 2017 |  | 2018  |  | 2019   |  | FY15 - FY19 Total |  | Cumulative Total (To Date) |  |
| Phase                        |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  |                            |  |
| 1 Planning                   |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
| 2 Acquisition                |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
| 3 Design                     |  | 17,679  |  |                       |  |               |  |       |  |        |  |      |  |       |  | 10,000 |  | \$                |  | 27,679                     |  |
| 4 Construction               |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
| 5 Equipment                  |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
| 6 Close-Out                  |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
| 7 Other                      |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  | \$                         |  |
|                              |  |   |  |                       |  |               |  |       |  |        |  |      |  |       |  |        |  |                   |  |                            |  |

\*NOTE:

| Project:                     | Bissonnet Reconstruction<br>Kirby to Edloe   | City Council District                           |              | Key Map:      |              | WBS.:        |                   | T-1922                     |         |
|------------------------------|--|---|--------------|---------------|--------------|--------------|-------------------|----------------------------|---------|
|                              |  | Location:                                       |              | Geo. Ref.:    |              |              |                   |                            |         |
|                              |  | Served:   |              | Neighborhood: |              | 87           |                   |                            |         |
|                              |  | Operating and Maintenance Costs: (\$ Thousands) |              |               |              |              |                   |                            |         |
| Description:                 | Project provides for the engineering, ROW acquisition, and reconstruction of existing roadway with concrete paving, curbs, sidewalks, street lighting and underground utilities as needed. |   | 2014         | 2015          | 2016         | 2017         | 2018              | Total                      |         |
|                              |  | Personnel                                       | -            | -             | -            | -            | -                 | \$                         |         |
|                              |  | Supplies  | -            | -             | -            | -            | -                 | \$                         |         |
|                              |  | Svcs. & Chgs.                                   | -            | -             | -            | -            | -                 | \$                         |         |
|                              |  | Capital Outlay                                  | -            | -             | -            | -            | -                 | \$                         |         |
| Justification:               | Project will reconstruct a street that has deteriorated beyond economic repair and normal maintenance.   | Total   | \$           | \$            | \$           | \$           | \$                |                            |         |
|                              |  | FTEs  |              |               |              |              |                   |                            |         |
| Fiscal Year Planned Expenses |  |   |              |               |              |              |                   |                            |         |
| Project Allocation           |  | 2015  | 2016         | 2017          | 2018         | 2019         | FY15 - FY19 Total | Cumulative Total (To Date) |         |
| Phase                        | 1 Planning   | -   | -            | -             | -            | -            | \$                | \$                         |         |
|                              | 2 Acquisition  | 963   | 200,000      | -             | -            | -            | \$                | 200,963                    |         |
|                              | 3 Design   | 233,122   | 250,000      | -             | -            | -            | \$                | 320,000                    |         |
|                              | 4 Construction   | -   | 2,500,000    | 7,000,000     | -            | -            | \$                | 12,000,000                 |         |
|                              | 5 Equipment  | -   | -            | -             | -            | -            | \$                | -                          |         |
|                              | 6 Close-Out  | -   | -            | -             | -            | -            | \$                | -                          |         |
|                              | 7 Other  | -   | 250,000      | 400,000       | 500,000      | -            | -                 | \$                         | 900,000 |
| Other Sub-Total:             |  | -   | 400,000      | -             | -            | -            | \$                | 900,000                    |         |
| Total Allocations            |  | \$ 234,085                                      | \$ 3,670,000 | \$ 404,299    | \$ 5,850,000 | \$ 7,570,000 | \$ -              | \$ 14,058,384              |         |
| Source of Funds              |  |   |              |               |              |              |                   |                            |         |
| TIRZ Funds                   |  | 234,085   | 3,670,000    | 404,299       | 1,400,000    | 320,000      | -                 | \$ 2,358,384               |         |
| City of Houston              |  | -   | -            | -             | -            | 200,000      | -                 | \$ 200,000                 |         |
| Grants                       |  | -   | -            | -             | -            | 750,000      | -                 | \$ 750,000                 |         |
| Other                        |  | -   | -            | -             | 4,450,000    | 6,300,000    | -                 | \$ 10,750,000              |         |
| Total Funds                  |  | \$ 234,085                                      | \$ 3,670,000 | \$ 404,299    | \$ 5,850,000 | \$ 7,570,000 | \$ -              | \$ 14,058,384              |         |

\*NOTE:

**\*NOTE:**

| Project:                     | Eastside Reconstruction<br>From US 59 to Westheimer  | City Council District                           |               | Key Map:      |              | WBS.:        |       | T-1924 |                   |                            |
|------------------------------|--|---|---------------|---------------|--------------|--------------|-------|--------|-------------------|----------------------------|
|                              |  | Location:                                       |               | Geo. Ref.:    |              |              |       |        |                   |                            |
|                              |  | Served:   |               | Neighborhood: |              | 87           |       |        |                   |                            |
| Description:                 | Project provides for the planning, engineering and construction of drainage, roadway and urban streetscape elements as needed.   | Operating and Maintenance Costs: (\$ Thousands) |               |               |              |              |       |        |                   |                            |
| Justification:               | UKRA drainage and mobility master plan identified drainage and pavement issues, COH sponsored Livable Center Study identified the need for enhanced pedestrian facilities. | 2014  | 2015          | 2016          | 2017         | 2018         | Total |        |                   |                            |
|                              |  | Personnel                                       | -             | -             | -            | -            | \$ -  |        |                   |                            |
|                              |  | Supplies  | -             | -             | -            | -            | -     | \$ -   |                   |                            |
|                              |  | Svcs. & Chgs.                                   | -             | -             | -            | -            | -     | \$ -   |                   |                            |
|                              |  | Capital Outlay                                  | -             | -             | -            | -            | -     | \$ -   |                   |                            |
|                              |  | Total   | \$ -          | \$ -          | \$ -         | \$ -         | \$ -  | \$ -   |                   |                            |
| FTEs                         | -  | -   | -             | -             | -            | -            |       |        |                   |                            |
| Fiscal Year Planned Expenses |  |   |               |               |              |              |       |        |                   |                            |
| Project Allocation           | Projected Expenses thru 6/30/13  | 2014 Budget                                     | 2014 Estimate | 2015          | 2016         | 2017         | 2018  | 2019   | FY15 - FY19 Total | Cumulative Total (To Date) |
| Phase                        |  |   |               |               |              |              |       |        |                   |                            |
| 1 Planning                   | -  | -   | -             | -             | -            | -            | -     | -      | \$ -              | \$ -                       |
| 2 Acquisition                | -  | -   | -             | -             | 100,000      | -            | -     | -      | \$ 100,000        | \$ 100,000                 |
| 3 Design                     | 55,218   | 15,000  | -             | 500,000       | 285,000      | 100,000      | -     | -      | \$ 885,000        | \$ 940,218                 |
| 4 Construction               | -  | -   | -             | -             | 1,500,000    | 4,500,000    | -     | -      | \$ 6,000,000      | \$ 6,000,000               |
| 5 Equipment                  | -  | -   | -             | -             | -            | -            | -     | -      | \$ -              | \$ -                       |
| 6 Close-Out                  | -  | -   | -             | -             | -            | -            | -     | -      | \$ -              | \$ -                       |
| 7 Other                      | -  | -   | -             | 150,000       | 150,000      | 200,000      | -     | -      | \$ 500,000        | \$ 500,000                 |
| Other Sub-Total:             | -  | -   | -             | 150,000       | 150,000      | 200,000      | -     | -      | \$ 500,000        | \$ 500,000                 |
| Total Allocations            | \$ 55,218  | \$ 15,000                                       | \$ -          | \$ 650,000    | \$ 2,035,000 | \$ 4,800,000 | \$ -  | \$ -   | \$ 7,485,000      | \$ 7,540,218               |
| Source of Funds              |  |   |               |               |              |              |       |        |                   |                            |
| TIRZ Funds                   | 55,218   | 15,000  | -             | 650,000       | 2,035,000    | 200,000      | -     | -      | \$ 2,885,000      | \$ 2,940,218               |
| City of Houston              | -  | -   | -             | -             | -            | -            | -     | -      | \$ -              | \$ -                       |
| Grants                       | -  | -   | -             | -             | -            | 3,100,000    | -     | -      | \$ 3,100,000      | \$ 3,100,000               |
| Other                        | -  | -   | -             | -             | -            | 1,500,000    | -     | -      | \$ 1,500,000      | \$ 1,500,000               |
| Total Funds                  | \$ 55,218  | \$ 15,000                                       | \$ -          | \$ 650,000    | \$ 2,035,000 | \$ 4,800,000 | \$ -  | \$ -   | \$ 7,485,000      | \$ 7,540,218               |

\*NOTE:

| Project:                     |  | Public Art                                      |  | City Council District |  | Key Map:      |  | WBS.:  |  | T-1925 |  |        |  |        |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|------------------------------|--|---|--|-----------------------|--|---------------|--|--------|--|--------|--|--------|--|--------|--|------------|--|-------------------|--|----------------------------|--|-----------|--|-----------|--|-----------|--|------------|--|------------|--|
|                              |  |   |  | Location:             |  | Geo. Ref.:    |  |        |  |        |  |        |  |        |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  |   |  | Served:               |  | Neighborhood: |  | 87     |  |        |  |        |  |        |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
| Description:                 |  | Operating and Maintenance Costs: (\$ Thousands) |  |                       |  |               |  |        |  |        |  |        |  |        |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  |   |  | 2014                  |  | 2015          |  | 2016   |  | 2017   |  | 2018   |  | Total  |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  |   |  | Personnel             |  | -             |  | -      |  | -      |  | -      |  | \$ -   |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  |   |  | Supplies              |  | -             |  | -      |  | -      |  | -      |  | \$ -   |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  |   |  | Svcs. & Chgs.         |  | -             |  | -      |  | -      |  | -      |  | \$ -   |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  |   |  | Capital Outlay        |  | -             |  | -      |  | -      |  | -      |  | \$ -   |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  | Total   |  | \$ -                  |  | -             |  | \$ -   |  | -      |  | \$ -   |  | \$ -   |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
|                              |  | FTEs  |  |                       |  |               |  |        |  |        |  |        |  | \$ -   |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
| Fiscal Year Planned Expenses |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
| Project Allocation           |  | Projected Expenses thru 6/30/13                 |  | 2014 Budget           |  | 2014 Estimate |  | 2015   |  | 2016   |  | 2017   |  | 2018   |  | 2019       |  | FY15 - FY19 Total |  | Cumulative Total (To Date) |  |           |  |           |  |           |  |            |  |            |  |
| Phase                        |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
| 1 Planning                   |  | -   |  | 30,000                |  |               |  | 40,000 |  | 47,000 |  | 26,000 |  | 21,000 |  | 26,000     |  | \$ 160,000        |  | \$ 160,000                 |  |           |  |           |  |           |  |            |  |            |  |
| 2 Acquisition                |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
| 3 Design                     |  | 250,000   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ 250,000                 |  |           |  |           |  |           |  |            |  |            |  |
| 4 Construction               |  | -   |  | 200,000               |  | 50,000        |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ 50,000                  |  |           |  |           |  |           |  |            |  |            |  |
| 5 Equipment                  |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
| 6 Close-Out                  |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
| 7 Other                      |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
|                              |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
|                              |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
|                              |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
|                              |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
|                              |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
| Other Sub-Total:             |  | -   |  | -                     |  |               |  | -      |  | -      |  | -      |  | -      |  | -          |  | \$ -              |  | \$ -                       |  |           |  |           |  |           |  |            |  |            |  |
| Total Allocations            |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  | \$ 250,000 |  | \$ 230,000        |  | \$ 50,000                  |  | \$ 47,000 |  | \$ 26,000 |  | \$ 21,000 |  | \$ 160,000 |  | \$ 460,000 |  |
| Source of Funds              |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  |            |  |                   |  |                            |  |           |  |           |  |           |  |            |  |            |  |
| TIRZ Funds                   |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  | 250,000    |  | 230,000           |  | 50,000                     |  | 47,000    |  | 26,000    |  | 21,000    |  | 160,000    |  | \$ 460,000 |  |
| City of Houston              |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  | -          |  | -                 |  | -                          |  | -         |  | -         |  | -         |  | -          |  | \$ -       |  |
| Grants                       |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  | -          |  | -                 |  | -                          |  | -         |  | -         |  | -         |  | -          |  | \$ -       |  |
| Other                        |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  | -          |  | -                 |  | -                          |  | -         |  | -         |  | -         |  | -          |  | \$ -       |  |
| Total Funds                  |  |   |  |                       |  |               |  |        |  |        |  |        |  |        |  | \$ 250,000 |  | \$ 230,000        |  | \$ 50,000                  |  | \$ 47,000 |  | \$ 26,000 |  | \$ 21,000 |  | \$ 160,000 |  | \$ 460,000 |  |

\*NOTE:

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

District B, District H

Item Creation Date: 9/19/2014

MYR - FY15 Budget Hardy Near / Northside Reinvestment Zone

Agenda Item#: 26.

**Summary:**

ORDINANCE relating to the Fiscal Affairs of the **HARDY/NEAR NORTHSIDE REDEVELOPMENT AUTHORITY ON BEHALF OF REINVESTMENT ZONE NUMBER TWENTY-ONE, CITY OF HOUSTON, TEXAS (HARDY/NEAR NORTHSIDE ZONE)**; approving the Fiscal Year 2015 Operating Budget for the Authority and the Fiscal Years 2015-2019 Capital Improvements Budget for the Zone - **DISTRICTS B - DAVIS and H - GONZALEZ**

**Background:**

**SUBJECT:** An Ordinance approving a Fiscal Year 2015 Operating Budget for Hardy/Near Northside Redevelopment Authority and a Fiscal Years 2015 - 2019 Capital Improvement Plan (CIP) for Reinvestment Zone Number Twenty-One, Houston, Texas (Hardy Near/Northside Zone).

**RECOMMENDATION: (Summary)**

City Council adopt an ordinance approving the Fiscal Year 2015 Operating Budget for the Hardy/Near Northside Redevelopment Authority and the Fiscal Years 2015 - 2019 CIP Budget for Reinvestment Zone Number Twenty-One (Hardy/Near Northside Zone).

**EXPLANATION:**

The Administration has undertaken a comprehensive review of proposed FY15 TIRZ budgets and recommends approval of the FY15 Operating Budget for Hardy/Near Northside Redevelopment Authority (Authority) and the FY15 - FY19 CIP for Reinvestment Zone Number Twenty-One (Zone).

Total Operating Budget for FY15 is \$730,679 which includes \$289,204 for required fund transfers and \$441,475 for Project Costs.

The FY15 - FY19 CIP totals \$382,600, and includes provisions for the design and construction of pedestrian infrastructure and hike and bike trails.

The FY15 Operating Budget includes \$382,600 for capital expenditures and \$33,875 for administration and overhead. The Authority must advise the Chief Development Officer of any budget amendments. Adjustments to the budget that exceed the lesser of \$400,000 or 5% of project costs require City Council approval.

The FY15 Budget provides for the transfer of \$251,482 to the City Housing and Community Development Department for Affordable Housing.

Attachments: FY15 Operating Budget and FY15 - FY19 CIP

cc: Marta Crinejo, Agenda Director  
Anna Russell, City Secretary  
David Feldman, City Attorney  
Gary Dzierlenga, Senior Assistant City Attorney

**Prior Council Action:**

**Date and identification of prior authorizing Council Action:**

Ord. No. 2013-0986, 11/06/13

**Contact Information:**

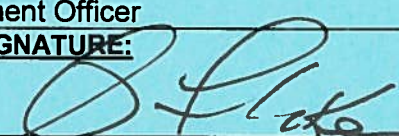
Gwendolyn Tillotson

**Phone:** (832) 393-0937

**ATTACHMENTS:**

| Description   | Type               |
|---|--------------------|
| <input type="checkbox"/> TIRZ 21 Hardy Near_Northside Zone - RCA                  | Signed Cover sheet |
| <input type="checkbox"/> TIRZ 21 Hardy Near_Northside Zone - Budget               | Backup Material    |
| <input type="checkbox"/> TIRZ 21 Hardy Near_Northside Zone - Prior Council Action | Backup Material    |



| REQUEST FOR COUNCIL ACTION   |   |                             |
|--|---|-----------------------------|
| <b>TO: Mayor via City Secretary</b>  | <b>RCA #</b>  |                             |
| <b>SUBJECT:</b> An Ordinance approving a Fiscal Year 2015 Operating Budget for Hardy/Near Northside Redevelopment Authority and a Fiscal Years 2015 - 2019 Capital Improvement Plan (CIP) for Reinvestment Zone Number Twenty-One, Houston, Texas (Hardy Near/Northside Zone).   | <b>Page</b><br>1 of 1   | <b>Agenda Item#</b>         |
| <b>FROM: (Department or other point of origin):</b><br>Andrew F. Icken<br>Chief Development Officer  | <b>Origination Date</b>   | <b>Agenda Date</b>          |
| <b>DIRECTOR'S SIGNATURE:</b><br>  | <b>Council Districts affected:</b><br>B, H  |                             |
| <b>For additional information contact:</b><br>Gwen Tillotson   | <b>Date and identification of prior authorizing Council Action:</b><br>Ord. No. 2013-0986, 11/06/13 |                             |
| <b>RECOMMENDATION: (Summary)</b><br>City Council adopt an ordinance approving the Fiscal Year 2015 Operating Budget for the Hardy/Near Northside Redevelopment Authority and the Fiscal Years 2015 - 2019 CIP Budget for Reinvestment Zone Number Twenty-One (Hardy/Near Northside Zone).  |   |                             |
| <b>Amount of Funding:</b> No Funding Required  |   |                             |
| <b>SOURCE OF FUNDING:</b> <input type="checkbox"/> General Fund <input type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund<br><input type="checkbox"/> Other (Specify)   |   |                             |
| <b>EXPLANATION:</b><br>The Administration has undertaken a comprehensive review of proposed FY15 TIRZ budgets and recommends approval of the FY15 Operating Budget for Hardy/Near Northside Redevelopment Authority (Authority) and the FY15 - FY19 CIP for Reinvestment Zone Number Twenty-One (Zone). <ul style="list-style-type: none"> <li>Total Operating Budget for FY15 is \$12,716,679 which includes \$289,204 for required fund transfers and \$12,427,475 for Project Costs.</li> <li>The FY15 - FY19 CIP totals \$382,600, and includes provisions for the design and construction of pedestrian infrastructure and hike and bike trails.</li> <li>The FY15 Operating Budget includes \$382,600 for capital expenditures and \$33,875 for administration and overhead. The Authority must advise the Chief Development Officer of any budget amendments. Adjustments to the budget that exceed the lessor of \$400,000 or 5% of project costs require City Council approval.</li> <li>The FY15 Budget provides for the transfer of \$251,482 to the City Housing and Community Development Department for Affordable Housing.</li> </ul> |   |                             |
| <b>Attachments:</b> FY15 Operating Budget and FY15 - FY19 CIP  |   |                             |
| <b>cc:</b> Marta Crinejo, Agenda Director<br>Anna Russell, City Secretary<br>David Feldman, City Attorney<br>Gary Dzierlenga, Senior Assistant City Attorney   |   |                             |
| REQUIRED AUTHORIZATION   |   |                             |
| <b>Other Authorization:</b>  | <b>Other Authorization:</b>   | <b>Other Authorization:</b> |

CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE

Fund Summary  
Fund Name: **Hardy Yards/Near Northside**  
TIRZ: **21**  
Fund Number: **7569/50**

|   |                                   |                 |
|---|-----------------------------------|-----------------|
| P<br>R<br>O<br>J<br>E<br>C<br>T<br><br>P<br>L<br>A<br>N | Base Year:                        | 2003            |
|   | Base Year Taxable Value:          | \$ 40,313,080   |
|   | Projected Taxable Value (TY2014): | \$ 160,256,635  |
|   | Current Taxable Value (TY2013):   | \$ 118,890,545  |
|   | Acres:                            | 326.1           |
|   | Administrator (Contact):          | City of Houston |
|   | Contact Number:                   | (832) 393-0985  |

|   |   |
|---|---|
| N<br>A<br>R<br>R<br>A<br>T<br>I<br>V<br>E | <b>Zone Purpose:</b>  |
|   | Tax Increment Reinvestment Zone Number Twenty-One, City of Houston, Texas was created to provide plans and programs needed to reposition a former Union Pacific rail yard site into a mixed-use development consisting of affordable housing and transit oriented mixed-use development through the design and construction of roadways and streets, utility systems, parks, hike and bike trails, mobility improvements, land acquisition and environmental remediation. |

|   |  | Total Plan    | Cumulative Expenses<br>(to 6/30/13) | Variance      |
|---|--|---------------|-------------------------------------|---------------|
| P<br>R<br>O<br>J<br>E<br>C<br>T<br><br>P<br>L<br>A<br>N | <b>Capital Projects:</b>                           |               |                                     |               |
|   | Roadway and Sidewalk Improvements                  | \$ 37,692,000 | \$ 103,634                          | \$ 37,588,366 |
|   | Public Utility Improvements                        | 1,929,000     | -                                   | 1,929,000     |
|   | Parks, Plazas and Recreational Facilities          | 1,440,000     | -                                   | 1,440,000     |
|   | Land Acquisition                                   | 4,820,000     | -                                   | 4,820,000     |
|   |  | -             | -                                   | -             |
|   |  | -             | -                                   | -             |
|   |  | -             | -                                   | -             |
|   |  | -             | -                                   | -             |
|   | <b>Total Capital Projects</b>                      | \$ 45,881,000 | \$ 103,634                          | \$ 45,777,366 |
|   | <b>Affordable Housing</b>                          | 17,500,000    | 414,426                             | 17,085,574    |
|   | <b>School &amp; Education/Cultural Facilities</b>  | -             | -                                   | -             |
| D<br>E<br>B<br>T  | <b>Financing Costs</b>                             | 1,700,000     | -                                   | 1,700,000     |
|   | <b>Administration Costs/ Professional Services</b> | 2,200,000     | 163,521                             | 2,036,479     |
|   | <b>Creation Costs</b>                              | -             | -                                   | -             |
|   | <b>Total Project Plan</b>                          | \$ 67,281,000 | \$ 681,581                          | \$ 66,599,419 |

|                  | Additional Financial Data               | FY2014 Budget                | FY2014 Estimates                       | FY2015 Budget                          |
|------------------|---|------------------------------|--|--|
| D<br>E<br>B<br>T | <b>Debt Service</b>                     | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Principal                               | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Interest                                | \$ -                         | \$ -                                   | \$ -                                   |
|                  |   | <b>Balance as of 6/30/13</b> | <b>Projected Balance as of 6/30/14</b> | <b>Projected Balance as of 6/30/15</b> |
|                  | <b>Year End Outstanding (Principal)</b> |                              |  |  |
|                  | Bond Debt                               | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Bank Loan                               | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Line of Credit                          | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Developer Agreement                     | \$ -                         | \$ -                                   | \$ -                                   |
|                  | Other                                   | \$ -                         | \$ -                                   | \$ -                                   |



CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE

Fund Summary  
Fund Name: Hardy Yards/Near Northside  
TIRZ: 21  
Fund Number: 7569/50

| TIRZ Budget Line Items                     | FY2014 Budget       | FY2014 Estimates    | FY2015 Budget        |
|--|---------------------|---------------------|----------------------|
| <b>RESOURCES</b>                           |                     |                     |                      |
| RESTRICTED Funds - Capital Projects        | \$ -                | \$ -                | \$ -                 |
| RESTRICTED Funds - Affordable Housing      | \$ -                | \$ -                | \$ -                 |
| RESTRICTED Funds - Developer Reimbursement | \$ 448,919          | \$ -                | \$ 448,919           |
| UNRESTRICTED Funds                         | \$ 287,635          | \$ 716,044          | \$ 518,369           |
| <b>Beginning Balance</b>                   | <b>\$ 736,554</b>   | <b>\$ 716,044</b>   | <b>\$ 967,288</b>    |
| City tax revenue                           | \$ 521,551          | \$ 494,252          | \$ 754,445           |
| County tax revenue                         | \$ -                | \$ -                | \$ -                 |
| ISD tax revenue                            | \$ -                | \$ -                | \$ -                 |
| ISD tax revenue - Pass Through             | \$ -                | \$ -                | \$ -                 |
| Community College tax revenue              | \$ -                | \$ -                | \$ -                 |
| <b>Incremental property tax revenue</b>    | <b>\$ 521,551</b>   | <b>\$ 494,252</b>   | <b>\$ 754,445</b>    |
|  | \$ -                | \$ -                | \$ -                 |
|  | \$ -                | \$ -                | \$ -                 |
|  | \$ -                | \$ -                | \$ -                 |
|  | \$ -                | \$ -                | \$ -                 |
| <b>Miscellaneous revenue</b>               | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>          |
| COH TIRZ interest                          | \$ 618              | \$ 170              | \$ 170               |
| Interest Income                            | \$ 957              | \$ 162              | \$ 162               |
| <b>Other Interest Income</b>               | <b>\$ 1,575</b>     | <b>\$ 332</b>       | <b>\$ 332</b>        |
|  | \$ -                | \$ -                | \$ -                 |
| Ike Recovery Funds - COH Housing           | \$ -                | \$ -                | \$ 11,986,000        |
| <b>Grant Proceeds</b>                      | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ 11,986,000</b> |
|  | \$ -                | \$ -                | \$ -                 |
| <b>Proceeds from Bank Loan</b>             | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>          |
|  | \$ -                | \$ -                | \$ -                 |
| <b>Contract Revenue Bond Proceeds</b>      | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>          |
| <b>TOTAL AVAILABLE RESOURCES</b>           | <b>\$ 1,259,681</b> | <b>\$ 1,210,629</b> | <b>\$ 13,708,065</b> |

**CITY OF HOUSTON  
ECONOMIC DEVELOPMENT DIVISION  
FISCAL YEAR 2015 BUDGET PROFILE**

Fund Summary  
Fund Name: **Hardy Yards/Near Northside**  
TIRZ: **21**  
Fund Number: **7569/50**

| <b>TIRZ Budget Line Items</b>                                   | <b>FY2014 Budget</b> | <b>FY2014 Estimates</b> | <b>FY2015 Budget</b> |
|---|----------------------|-------------------------|----------------------|
| <b>EXPENDITURES</b>   |                      |                         |                      |
| Accounting  | \$ 10,000            | \$ 8,730                | \$ 10,000            |
| Administration Salaries & Benefits                              | \$ 10,500            | \$ 16,560               | \$ 15,000            |
| Auditor   | \$ 8,000             | \$ 6,500                | \$ 8,000             |
| Bond Services/Trustee/Financial Advisor                         | \$ -                 | \$ -                    | \$ -                 |
| Insurance   | \$ 700               | \$ 791                  | \$ 800               |
| Office Administration   | \$ 75                | \$ -                    | \$ 75                |
| <b>TIRZ Administration and Overhead</b>                         | <b>\$ 29,275</b>     | <b>\$ 32,581</b>        | <b>\$ 33,875</b>     |
| Engineering Consultants   | \$ -                 | \$ -                    | \$ -                 |
| Legal   | \$ 15,000            | \$ 10,595               | \$ 25,000            |
| Construction Audit  | \$ -                 | \$ -                    | \$ -                 |
| Planning Consultants  | \$ -                 | \$ -                    | \$ -                 |
| <b>Program and Project Consultants</b>                          | <b>\$ 15,000</b>     | <b>\$ 10,595</b>        | <b>\$ 25,000</b>     |
| <b>Management consulting services</b>                           | <b>\$ 44,275</b>     | <b>\$ 43,176</b>        | <b>\$ 58,875</b>     |
| Capital Expenditures (See CIP Schedule)                         | \$ 382,600           | \$ 10,701               | \$ 382,600           |
| <b>TIRZ Capital Expenditures</b>                                | <b>\$ 382,600</b>    | <b>\$ 10,701</b>        | <b>\$ 382,600</b>    |
| Developer - To Be Determined                                    | \$ -                 | \$ -                    | \$ 11,986,000        |
| Hardy Yards/Cypress Development                                 | \$ -                 | \$ -                    | \$ -                 |
| <b>Developer / Project Reimbursements</b>                       | <b>\$ -</b>          | <b>\$ -</b>             | <b>\$ 11,986,000</b> |
| <b>System debt service</b>                                      | <b>\$ -</b>          | <b>\$ -</b>             | <b>\$ -</b>          |
| <b>TOTAL PROJECT COSTS</b>                                      | <b>\$ 426,875</b>    | <b>\$ 53,877</b>        | <b>\$ 12,427,475</b> |
| Payment/transfer to ISD - educational facilities                | \$ -                 | \$ -                    | \$ -                 |
| Payment/transfer to ISD - educational facilities (Pass Through) | \$ -                 | \$ -                    | \$ -                 |
| Administration Fees:  |                      |                         |                      |
| City  | \$ 26,078            | \$ 24,713               | \$ 37,722            |
| County  | \$ -                 | \$ -                    | \$ -                 |
| ISD   | \$ -                 | \$ -                    | \$ -                 |
| HCC   | \$ -                 | \$ -                    | \$ -                 |
| Affordable Housing:   |                      |                         |                      |
| City  | \$ 173,850           | \$ 164,751              | \$ 251,482           |
| County  | \$ -                 | \$ -                    | \$ -                 |
| ISD to City of Houston  | \$ -                 | \$ -                    | \$ -                 |
| Municipal Services (Payable to COH)                             | \$ -                 | \$ -                    | \$ -                 |
| <b>Total Transfers</b>  | <b>\$ 199,928</b>    | <b>\$ 189,464</b>       | <b>\$ 289,204</b>    |
| <b>Total Budget</b>   | <b>\$ 626,803</b>    | <b>\$ 243,341</b>       | <b>\$ 12,716,679</b> |
| RESTRICTED Funds - Capital Projects                             | \$ -                 | \$ -                    | \$ -                 |
| RESTRICTED Funds - Affordable Housing                           | \$ -                 | \$ -                    | \$ -                 |
| RESTRICTED Funds - Developer Reimbursement                      | \$ 532,878           | \$ 448,919              | \$ 532,878           |
| UNRESTRICTED Funds  | \$ 100,000           | \$ 518,369              | \$ 458,508           |
| <b>Ending Fund Balance</b>                                      | <b>\$ 632,878</b>    | <b>\$ 967,288</b>       | <b>\$ 991,386</b>    |
| <b>Total Budget &amp; Ending Fund Balance</b>                   | <b>\$ 1,259,681</b>  | <b>\$ 1,210,629</b>     | <b>\$ 13,708,065</b> |

Notes:

| Council District | CIP No. | Project                                  | Fiscal Year Planned Appropriations |                |            |      |      |      |      | Cumulative Total (To Date) |
|------------------|---------|--|------------------------------------|----------------|------------|------|------|------|------|----------------------------|
|                  |         |  | Through 2013                       | Projected 2014 | 2015       | 2016 | 2017 | 2018 | 2019 |                            |
| H                | T-2101  | Pedestrian Pathways/Hike and Bike Trails | \$ 103,634                         | 10,701         | 382,600    | -    | -    | -    | -    | 496,935                    |
|                  |         | <b>Totals</b>                            | \$ 103,634                         | \$ 10,701      | \$ 382,600 | \$ - | \$ - | \$ - | \$ - | \$ 496,935                 |

\* NOTE:

\*\* NOTE:

\*\*\* NOTE:

| Source of Funds | Fiscal Year Planned Appropriations |                |         |      |      |      |      |   | FY15 - FY19<br>Total | Cumulative<br>Total<br>(To Date) |
|-----------------|------------------------------------|----------------|---------|------|------|------|------|---|----------------------|----------------------------------|
|                 | Through 2013                       | Projected 2014 | 2015    | 2016 | 2017 | 2018 | 2019 |   |                      |                                  |
|                 |                                    |                |         |      |      |      |      |   |                      |                                  |
| TIRZ Funds      | 103,634                            | 10,701         | 382,600 | -    | -    | -    | -    | - | 382,600              | 496,935                          |
| City of Houston | -                                  | -              | -       | -    | -    | -    | -    | - | -                    | -                                |
| Grants          | -                                  | -              | -       | -    | -    | -    | -    | - | -                    | -                                |
| Other           | -                                  | -              | -       | -    | -    | -    | -    | - | -                    | -                                |
| Project Total   | 103,634                            | 10,701         | 382,600 | -    | -    | -    | -    | - | 382,600              | 496,935                          |

| Project:                     |   | Pedestrian Pathways/Hike and Bike Trails        |             |               |            | City Council District |      | Key Map:      |      | 491               |                            | WBS.: |    | T-2101 |    |   |
|------------------------------|---|---|-------------|---------------|------------|-----------------------|------|---------------|------|-------------------|----------------------------|-------|----|--------|----|---|
|                              |   |   |             |               |            | Location:             |      | Geo. Ref.:    |      |                   |                            |       |    |        |    |   |
|                              |   |   |             |               |            | Served:               |      | Neighborhood: |      | 51, 61            |                            |       |    |        |    |   |
| Description:                 |   | Operating and Maintenance Costs: (\$ Thousands) |             |               |            |                       |      |               |      |                   |                            |       |    |        |    |   |
|                              |   | 2015  |             | 2016          |            | 2017                  |      | 2018          |      | 2019              |                            | Total |    |        |    |   |
| Justification:               | Increased residential densities along the east and west side of Main Street north of Downtown require better access for pedestrians and bicycles. | Personnel                                       | -           | -             | -          | -                     | -    | -             | -    | -                 | -                          | -     | \$ | -      | -  |   |
|                              |   | Supplies  | -           | -             | -          | -                     | -    | -             | -    | -                 | -                          | -     | -  | -      | \$ | - |
|                              |   | Svcs. & Chgs.                                   | -           | -             | -          | -                     | -    | -             | -    | -                 | -                          | -     | -  | -      | \$ | - |
|                              |   | Capital Outlay                                  | -           | -             | -          | -                     | -    | -             | -    | -                 | -                          | -     | -  | -      | \$ | - |
|                              |   | Total   | \$          | -             | \$         | -                     | \$   | -             | \$   | -                 | \$                         | -     | \$ | -      | \$ | - |
|                              |   |   |             |               |            |                       |      |               |      |                   |                            | FTEs  |    |        |    |   |
| Fiscal Year Planned Expenses |   |   |             |               |            |                       |      |               |      |                   |                            |       |    |        |    |   |
| Project Allocation           |   | Projected Expenses thru 6/30/13                 | 2014 Budget | 2014 Estimate | 2015       | 2016                  | 2017 | 2018          | 2019 | FY15 - FY19 Total | Cumulative Total (To Date) |       |    |        |    |   |
| Phase                        | 1 Planning  | -   | -           | -             | -          | -                     | -    | -             | -    | \$                | -                          |       |    |        |    |   |
|                              | 2 Acquisition   | -   | -           | -             | -          | -                     | -    | -             | -    | \$                | -                          |       |    |        |    |   |
|                              | 3 Design  | 103,634   | 92,616      | 10,701        | -          | -                     | -    | -             | -    | \$                | 114,335                    |       |    |        |    |   |
|                              | 4 Construction  | -   | 127,673     | -             | 382,600    | -                     | -    | -             | -    | \$                | 382,600                    |       |    |        |    |   |
|                              | 5 Equipment   | -   | -           | -             | -          | -                     | -    | -             | -    | \$                | -                          |       |    |        |    |   |
|                              | 6 Close-Out   | -   | -           | -             | -          | -                     | -    | -             | -    | \$                | -                          |       |    |        |    |   |
|                              | 7 Other   | -   | -           | -             | -          | -                     | -    | -             | -    | \$                | -                          |       |    |        |    |   |
| Other Sub-Total:             |   | -   | -           | -             | -          | -                     | -    | -             | -    | \$                | -                          |       |    |        |    |   |
| Total Allocations            |   | \$ 103,634                                      | \$ 220,289  | \$ 10,701     | \$ 382,600 | \$ -                  | \$ - | \$ -          | \$ - | \$ 382,600        | \$ 496,935                 |       |    |        |    |   |
| Source of Funds              |   |   |             |               |            |                       |      |               |      |                   |                            |       |    |        |    |   |
| TIRZ Funds                   | 103,634   | 220,289   | 10,701      | 382,600       | -          | -                     | -    | -             | -    | \$ 382,600        | \$ 496,935                 |       |    |        |    |   |
| City of Houston              | -   | -   | -           | -             | -          | -                     | -    | -             | -    | -                 | \$ -                       |       |    |        |    |   |
| Grant Funds                  | -   | -   | -           | -             | -          | -                     | -    | -             | -    | -                 | \$ -                       |       |    |        |    |   |
| Other                        | -   | -   | -           | -             | -          | -                     | -    | -             | -    | -                 | \$ -                       |       |    |        |    |   |































|  |  |   |                                    |   |
|--|--|---|------------------------------------|---|
| <b>SUBJECT:</b> Interlocal Agreement between the City of Houston and the Brazos River Authority related to development of the Allens Creek Reservoir. CIP # S-0896, GFS# S-0896-01-1   |  | <b>Category #</b><br>00-249   | <b>Page</b><br>1 of 2              | <b>Agenda Item #:</b><br>34                       |
| <b>From: (Department or Other Point of Origin)</b><br>Department of Public Works and Engineering   |  | <b>Origination Date:</b><br>3-21-00                                 | <b>Agenda Date:</b><br>APR 05 2000 |   |
| <b>DIRECTOR'S SIGNATURE:</b><br>Jerry King, P.E., Director <i>[Signature]</i>  |  | <b>Council District Affected:</b>                                   |                                    |   |
| <b>For Additional Information Contact:</b><br>Ronald E. Hudson <i>[Signature]</i><br>Phone: (713) 837-0441   |  | <b>Date and Identification of Prior Authorizing Council Action:</b> |                                    |   |
| <b>RECOMMENDATION: (Summary)</b><br>That the Mayor and City Council approve the Interlocal Agreement between the City of Houston and the Brazos River Authority and appropriate the necessary funding  |  |   |                                    |   |
| <b>Amount of Funding:</b><br><br>\$14,000,000.00   |  | <b>F&amp;A Budget:</b><br><br>Steve Anderle                         |                                    |   |
| <b>SOURCE OF FUNDING:</b> <input type="checkbox"/> General Fund <input type="checkbox"/> Grant Fund <input checked="" type="checkbox"/> Enterprise Fund<br><input checked="" type="checkbox"/> Other (Specify) - Water and Sewer Consolidated Construction Fund No. 755 <i>[Signature]</i>   |  |   |                                    |   |
| <b>SPECIFIC EXPLANATION:</b><br><p>The Allens Creek Reservoir project site is located in Austin County just north of the City of Wallis. This reservoir site is unique in having the approximately 9,500 acre site all in one ownership and having previously been permitted by the Texas Natural Resources Conservation Commission (TNRCC), formerly the Texas Water Commission. The reservoir was originally permitted for cooling water for a proposed Reliant Energy, formerly Houston Lighting and Power Company, nuclear electric generating plant. Reliant Energy had voluntarily relinquished this permit.</p> <p>The Brazos River Authority (BRA) has held an option to purchase the site for a number years that required BRA to exercise that option by November 1999. BRA and Reliant Energy have negotiated an amendment to that agreement that allowed BRA to make an initial payment of \$150,000.00 and pay the balance of the appraised value of the site in a lump sum by December 31, 2000 or begin to make substantial payments with interest.</p> <p>The 76<sup>th</sup> Texas Legislature approved Senate Bill No. 1593 that includes provisions related to permitting and financing that greatly assists in developing a viable reservoir project. The City of Houston has negotiated an Interlocal Agreement with BRA that contains provisions for acquisition of this unique site and ultimate development of the reservoir. The Provisions in this agreement are similar to provisions in the contracts with the Trinity River Authority and San Jacinto River Authority for the successful development of Lake Livingston and Lake Conroe respectively.</p> |  |   |                                    |   |
| <b>REQUIRED AUTHORIZATION:</b> 20REH102 -  |  |   |                                    |   |
| <b>Director</b> <i>[Signature]</i>   |  | <b>Other Authorization:</b>   |                                    | <b>Other Authorization:</b><br><i>[Signature]</i> |

|               |   |                       |             |
|---------------|---|-----------------------|-------------|
| Date: 3/16/00 | Subject: Interlocal Agreement between the City of Houston and the Brazos River Authority related to development of the Allens Creek Reservoir. CIP # S-0896, GFS# S | Originator's Initials | Page 2 of 2 |
|---------------|---|-----------------------|-------------|

**SPECIFIC EXPLANATION (Continued):**

To comply with the laws and Constitution of the State of Texas this proposed interlocal agreement requires the appropriation of the City's estimated share of site acquisition in the amount of \$14 million. It is not anticipated that this \$14 million will actually be expended on acquiring the site, but instead the BRA and the City will acquire up to \$20 million in Texas Water Development Board (TWDB) participation funding as provided for in Senate Bill 1593. This TWDB funding has very favorable interest and repayment conditions that allows purchase of the site and ultimately financing up to 50% of the total project construction.

This contract provides for 70% City ownership of the water right associated with the completed Allens Creek Reservoir. It is anticipated from yield studies that the total permitted annual diversion from the reservoir will be 110,000 acre feet (about 98 mgd). The City of Houston 70% share would be about 69 mgd. For comparison purposes Houston's 2/3 share of the Lake Conroe water right is about 60 mgd.

Approval of this interlocal agreement allows the City to become a 70% participant in preserving this reservoir site which is one of, if not the only, new reservoirs that can be constructed in Texas in the near future. We recommend that the Mayor and City Council approve this contract and appropriate the necessary funding.

FORM 132M.  
(Approving/Authorizing)

Controller's Office

the Honorable Mayor and City Council of the City of Houston:

I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:

- ( ) Funds have been encumbered out of funds previously appropriated for such purpose.
- ( ) Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- ( ) Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- ( ) No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- ( ) The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- ( ☒ ) A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated hereby by this reference.

( ) Other - Grant Funds Available

Date: April 5, 19 <sup>2000</sup>

*John H. Garcia*  
*John H. Garcia*  
City Controller of the City of Houston

FUND REF: 155-P0953 AMOUNT: \$14,000,000.00 ENCUMB. NO.: 155 DP

Ordinance No. 2000-249

078  
AN ORDINANCE APPROPRIATING \$14,000,000.00 OUT OF THE WATER AND SEWER CONSOLIDATED CONSTRUCTION FUND AND APPROVING AND AUTHORIZING AN INTERLOCAL

FORM 132M.

(Approving/Authorizing)

AGREEMENT BETWEEN THE CITY OF HOUSTON AND BRAZOS RIVER AUTHORITY FOR ACQUISITION AND OPERATION OF THE ALLENS CREEK RESERVIOR PROJECT; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

\* \* \* \*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON:

Section 1. The City Council appropriates the sum of money set out in the title of this Ordinance, out of the funds set out in such title for the purpose set out in such title.

Section 2. The City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

Section 3. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement or other undertaking described in the title of this ordinance, in the event of changed circumstances.

Section 4. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

Section 5. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 5th day of April, 192000.

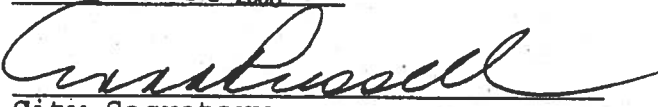
APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

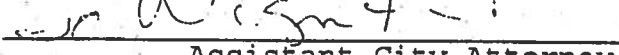
FORM 132M.

(Approving/Authorizing)

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is APR 11 2000.

  
\_\_\_\_\_  
City Secretary

(Prepared by Legal Dept.   
(JSW:WHU: March 16, 2000) Assistant City Attorney  
(Requested by Director, Public Works & Engineering)  
(L.D. File No. )  
c:\WPDOCS\WHOR1949.word

- 3 -

CAPTION PUBLISHED IN DAILY COURT  
REVIEW  
DATE: APR 11 2000

FORM 132M.

(Approving/Authorizing)

CERTIFICATE OF CITY CONTROLLER

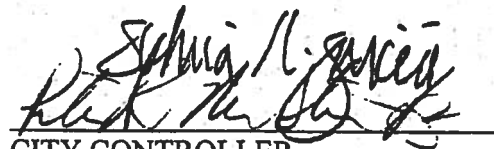
I, SYLVIA R. GARCIA, CITY CONTROLLER OF THE CITY OF HOUSTON, TEXAS, PURSUANT TO ARTICLE II, SECTION 19A OF THE CHARTER OF THE CITY OF HOUSTON, WITH RESPECT TO THE SUM OF \$14,000,000.00 REQUIRED FOR THE PROJECT REFERENCED IN THE TITLE OF THIS ORDINANCE, DO HEREBY CERTIFY AS FOLLOWS:

- (1) THE SUM OF \$14,000,000.00 WILL BE FUNDED FROM WATER AND SEWER SYTEM BOND PROCEEDS AND/OR WATER AND SEWER SYSTEM COMMERCIAL PAPER PROCEEDS (FIRST-IN-FIRST-OUT BASIS) PURSUANT TO ORDINANCE NO. 93-1409 AUTHORIZING THE CREATION OF THE WATER AND SEWER SYSTEM CONSOLIDATED CONSTRUCTION FUND. TO THE EXTENT THAT THIS SUM WILL BE PAID WITH BOND PROCEEDS, IT IS IN THE TREASURY IN THE SAID FUND, AND IS NOT APPROPRIATED FOR ANY OTHER PURPOSE.
- (2) TO THE EXTENT THAT THE \$14,000,000.00 WILL BE PAID BY COMMERCIAL PAPER PROCEEDS, FUNDS WILL BE RECEIVED INTO THE TREASURY AND AVAILABLE BEFORE THE MATURITY OF SAID OBLIGATION, AND SUCH ANTICIPATED FUNDS HAVE NOT ALREADY BEEN APPROPRIATED FOR ANY OTHER PURPOSE. SUCH SUM WILL BE RECEIVED AS A CASH DRAW(S) TO THE CITY OF HOUSTON PURSUANT TO THE WATER AND SEWER SYSTEM COMMERCIAL PAPER ORDINANCE, ORDINANCE NO. 93-1209.



FORM 132M.

(Approving/Authorizing)

  
CITY CONTROLLER

U:\WPDOCS\WHOR1949.WORD

| AYE     | NO      |                 |
|---------|---------|-----------------|
| ✓       |         | MAYOR BROWN     |
| ....    | ....    | COUNCIL MEMBERS |
| ✓       |         | TATRO           |
| ✓       |         | GALLOWAY        |
| ✓       |         | GOLDBERG        |
| ✓       |         | BONEY           |
| ✓       |         | TODD            |
| ✓       |         | ELLIS           |
| ✓       |         | KELLER          |
| ✓       |         | VASQUEZ         |
| ✓       |         | CASTILLO        |
| ✓       |         | PARKER          |
| ✓       |         | QUAN            |
| ✓       |         | SANCHEZ         |
| ✓       |         | BELL            |
| ✓       |         | ROBINSON        |
| CAPTION | ADOPTED |                 |

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ETJ

20IPB133-Addition 127.33 acres HCMUD #449

Agenda Item#: 29.

**Summary:**

ORDINANCE consenting to the addition of 127.33 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 449**, for inclusion in its district

**Background:**

Harris County Municipal Utility District No. 449 has petitioned the City of Houston for consent to add 127.33 acres of land located in the City's extraterritorial jurisdiction, to the district.

The Utility District Revenue Committee has evaluated the application with respect to wastewater collection and treatment, potable water distribution, storm water conveyance, and other public services.

The district is located in the vicinity of Clay Road, Stockdick School Road, Peek road, and Porter Road. The district desires to add 127,33 acres, thus yielding a total of 518.45 acres. The district is served by a district plant, Harris County Municipal Utility District No. 449 Wastewater Treatment Plant. The nearest major drainage facility for Harris County Municipal Utility District No. 449 is South Mayde Creek which flows into Langham Creek which flows into Buffalo Bayou, and finally into the Houston Ship Channel.

Potable water is provided by the district. By executing the Petition for Consent, the district has acknowledged that all plans for the construction of water conveyance, wastewater collection, and storm water collection systems within the district must be approved by the City of Houston prior to their construction.

The Utility District Review Committee recommends that the subject petition be approved.

**Contact Information:**

Carol Ellinger Haddock, P.E.  
Senior Assistant Director  
(832) 395-2686

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

District B, District H

20SMC64-Utility Reimbursement Srvcs Agree - Sprint Communications Company, L.P.

Agenda Item#: 31.

**Summary:**

ORDINANCE appropriating \$122,555.90 out of Street & Traffic Control and Storm Drainage DDSRF and approving and authorizing a Utility Reimbursement Services Agreement between the City of Houston and **SPRINT COMMUNICATIONS COMPANY, L.P.** for Hirsch Road Paving and Drainage - **DISTRICTS B - DAVIS and H - GONZALEZ**

**Background:**

**PROJECT NOTICE/JUSTIFICATION:** Hirsch Road Paving and Drainage is a major thoroughfare that will improve traffic circulation, mobility and drainage in service area. These improvements will upgrade existing roadway to Major Thoroughfare Freeway Plan (MTFP) standards. The construction of this roadway requires that certain existing utilities be relocated or removed to facilitate the construction of the proposed roadways.

**DESCRIPTION/SCOPE:** Hirsch Road project provides for the right of way acquisition, design and construction of a four lane divided concrete roadway with storm drainage, curbs, sidewalks, driveways, street lighting, traffic control, and necessary underground facilities. Along the roadway alignment exist a fiber optic cable that must be relocated to avoid conflict with proposed construction of Hirsch Road.

**LOCATION:** Hirsch Road and Drainage project area is generally bound by Kelley on the south, East Crosstimbers on the north, Eastex Freeway on the west and Lockwood Boulevard on the east. The project is located in Key Map Grids 454K and 454P.

**SCOPE OF THIS AGREEMENT:** Under the terms of this agreement, the City of Houston will reimburse the owner's actual cost for the relocation of their fiber optic cable after the work has been completed and the City has audited the final billing from the owner. Sprint Communications Company, L.P. has estimated the relocation cost to be \$105,651.64. This estimated has been reviewed and approved by The Public Works and Engineering Department. The City is not obligated to pay any cost in excess of the cost estimate provided by the owner of the fiber optic cable. The Public Works and Engineering Department request the appropriation of \$122,555.90 which includes \$105,651.64 for reimbursement cost and \$16,904.26 for CIP Cost Recovery.

**ACTION RECOMMENDED:** It is recommended that City Council adopt an Ordinance approving a Utility Reimbursement Services Agreement between the City of Houston and **SPRINT COMMUNICATIONS COMPANY, L.P.** and appropriate funds.

**Amount of Funding:**

Total of \$122,555.90 from Fund 4042 - Street & Traffic Control & Storm Drainage DDSRF

**Source of Funding:**

Enterprise Fund



**Contact Information:**

Ravi Kaleyatodi, P.E., CPM

**Phone:** (832) 395-2326

Senior Assistant Director

**ATTACHMENTS:**

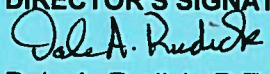
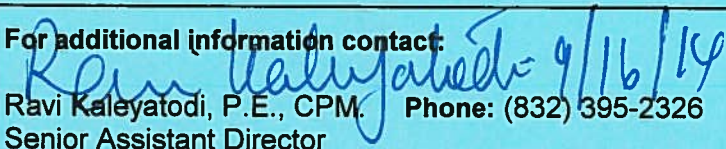
| Description   | Type               |
|---|--------------------|
|  20SMC64-Utility Reimbursement Srvcs Agree - Sprint Communications Company, L.P. RCA | Signed Cover sheet |
|  20SMC64-Utility Reimbursement Srvcs Agree - Sprint Communications Company, L.P. MAP | Backup Material    |

|             |  |                             |
|-------------|--|-----------------------------|
| <div></div> | 20SMC64-Utility Reimbursement Svcs Agree - Sprint Communications Company, L.P. SAP       | Financial Information       |
| <div></div> | 20SMC64-Utility Reimbursement Svcs Agree - Sprint Communications Company, L.P. AGREEMENT | Contract/Exhibit            |
| <div></div> | 20SMC64-Utility Reimbursement Svcs Agree - Sprint Communications Company, L.P. Ordinance | Ordinance/Resolution/Motion |



TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

|  |   |                       |                      |
|--|---|-----------------------|----------------------|
| <b>SUBJECT:</b> Utility Reimbursement Services Agreement between the City of Houston and Sprint Communications Company, L.P. for Hirsch Road Paving and Drainage: Kelley to East Crosstimbers<br>WBS No. N-000617-0001-7 |   | <b>Page</b><br>1 of 1 | <b>Agenda Item #</b> |
| <b>FROM: (Department or other point of origin):</b><br>Department of Public Works and Engineering  | <b>Origination Date:</b>  | <b>Agenda Date:</b>   |                      |
| <b>DIRECTOR'S SIGNATURE:</b><br><br>Dale A. Rudick, P.E., Director   | <b>Council District affected:</b><br><br>B, H<br><br>JK             |                       |                      |
| <b>For additional information contact:</b><br><br>Ravi Kaleyatodi, P.E., CPM. Phone: (832) 395-2326<br>Senior Assistant Director         | <b>Date and identification of prior authorizing Council action:</b> |                       |                      |

**RECOMMENDATION: (Summary)**

An Ordinance approving a Utility Reimbursement Services Agreement between the City of Houston and Sprint Communications Company, L.P. and appropriate funds.

**Amount and Source of Funding:**

Total of \$122,555.90 from Fund 4042 – Street & Traffic Control & Storm Drainage DDSRF. *W.F. 9/17/2014*

**PROJECT NOTICE/JUSTIFICATION:** Hirsch Road Paving and Drainage is a major thoroughfare that will improve traffic circulation, mobility and drainage in service area. These improvements will upgrade existing roadway to Major Thoroughfare Freeway Plan (MTFP) standards. The construction of this roadway requires that certain existing utilities be relocated or removed to facilitate the construction of the proposed roadways.

**DESCRIPTION/SCOPE:** Hirsch Road project provides for the right of way acquisition, design and construction of a four lane divided concrete roadway with storm drainage, curbs, sidewalks, driveways, street lighting, traffic control, and necessary underground facilities. Along the roadway alignment exist a fiber optic cable that must be relocated to avoid conflict with proposed construction of Hirsch Road.


**LOCATION:** Hirsch Road Paving and Drainage project area is generally bound by Kelley on the south, East Crosstimbers on the north, Eastex Freeway on the west and Lockwood Boulevard on the east. The project is located in Key Map Grids 454K and 454P.

**SCOPE OF THIS AGREEMENT:** Under the terms of this agreement, the City of Houston will reimburse the owner's actual cost for the relocation of their fiber optic cable after the work has been completed and the City has audited the final billing from the owner. Sprint Communications Company, L.P. has estimated the relocation cost to be \$105,651.64. This estimate has been reviewed and approved by The Public Works and Engineering Department. The City is not obligated to pay any cost in excess of the cost estimate provided by the owner of the fiber optic cable. The Public Works and Engineering Department request the appropriation of \$122,555.90 which includes \$105,651.64 for reimbursement cost and \$16,904.26 for CIP Cost Recovery.

**ACTION RECOMMENDED:** It is recommended that City Council adopt an Ordinance approving a Utility Reimbursement Services Agreement between the City of Houston and Sprint Communications Company, L.P. and appropriate funds.

*DRM JK*  
DAR:DRM:RK:JHK:SMC

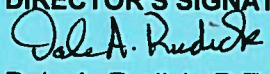
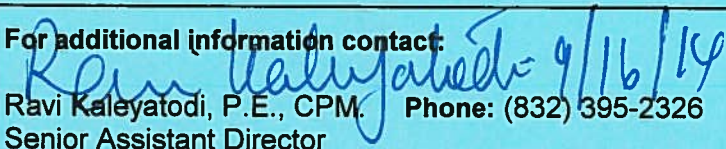
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WBS Number N-000617-0001-7. (1.2 DSGN RCA\_Utility Agreement)

|                            |                             |  |                          |
|----------------------------|-----------------------------|--|--------------------------|
| <b>LTS No. 11896</b>       |                             | <b>REQUIRED AUTHORIZATION</b>  | <b>CUIC ID # 20SMC64</b> |
| <b>Finance Department:</b> | <b>Other Authorization:</b> | <b>Other Authorization:</b><br><br>Daniel R. Menendez, P.E., Deputy Director<br>Engineering and Construction Division |                          |



TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

|  |   |                       |                      |
|--|---|-----------------------|----------------------|
| <b>SUBJECT:</b> Utility Reimbursement Services Agreement between the City of Houston and Sprint Communications Company, L.P. for Hirsch Road Paving and Drainage: Kelley to East Crosstimbers<br>WBS No. N-000617-0001-7 |   | <b>Page</b><br>1 of 1 | <b>Agenda Item #</b> |
| <b>FROM: (Department or other point of origin):</b><br>Department of Public Works and Engineering  | <b>Origination Date:</b>  | <b>Agenda Date:</b>   |                      |
| <b>DIRECTOR'S SIGNATURE:</b><br><br>Dale A. Rudick, P.E., Director   | <b>Council District affected:</b><br><br>B, H<br><br>JK             |                       |                      |
| <b>For additional information contact:</b><br><br>Ravi Kaleyatodi, P.E., CPM. Phone: (832) 395-2326<br>Senior Assistant Director         | <b>Date and identification of prior authorizing Council action:</b> |                       |                      |

**RECOMMENDATION: (Summary)**

An Ordinance approving a Utility Reimbursement Services Agreement between the City of Houston and Sprint Communications Company, L.P. and appropriate funds.

**Amount and Source of Funding:**

Total of \$122,555.90 from Fund 4042 – Street & Traffic Control & Storm Drainage DDSRF. *W.F. 9/17/2014*

**PROJECT NOTICE/JUSTIFICATION:** Hirsch Road Paving and Drainage is a major thoroughfare that will improve traffic circulation, mobility and drainage in service area. These improvements will upgrade existing roadway to Major Thoroughfare Freeway Plan (MTFP) standards. The construction of this roadway requires that certain existing utilities be relocated or removed to facilitate the construction of the proposed roadways.

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**LOCATION:** Hirsch Road Paving and Drainage project area is generally bound by Kelley on the south, East Crosstimbers on the north, Eastex Freeway on the west and Lockwood Boulevard on the east. The project is located in Key Map Grids 454K and 454P.

**SCOPE OF THIS AGREEMENT:** Under the terms of this agreement, the City of Houston will reimburse the owner's actual cost for the relocation of their fiber optic cable after the work has been completed and the City has audited the final billing from the owner. Sprint Communications Company, L.P. has estimated the relocation cost to be \$105,651.64. This estimate has been reviewed and approved by The Public Works and Engineering Department. The City is not obligated to pay any cost in excess of the cost estimate provided by the owner of the fiber optic cable. The Public Works and Engineering Department request the appropriation of \$122,555.90 which includes \$105,651.64 for reimbursement cost and \$16,904.26 for CIP Cost Recovery.

**ACTION RECOMMENDED:** It is recommended that City Council adopt an Ordinance approving a Utility Reimbursement Services Agreement between the City of Houston and Sprint Communications Company, L.P. and appropriate funds.

*DRM JK*  
DAR:DRM:RK:JHK:SMC

H:\design\A-SB-DIV00 - STAFF FOLDERS\campaigns\2\Hirsch Fiber Optic Relocation\20SMC64 Sprint.doc  
WBS Number N-000617-0001-7. (1.2 DSGN RCA\_Utility Agreement)

|                            |                             |  |                          |
|----------------------------|-----------------------------|--|--------------------------|
| <b>LTS No. 11896</b>       |                             | <b>REQUIRED AUTHORIZATION</b>  | <b>CUIC ID # 20SMC64</b> |
| <b>Finance Department:</b> | <b>Other Authorization:</b> | <b>Other Authorization:</b><br><br>Daniel R. Menendez, P.E., Deputy Director<br>Engineering and Construction Division |                          |



**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

20JAI524-rePipe Construction LLC - Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method

Agenda Item#: 32.

**Summary:**

ORDINANCE appropriating \$3,485,830.00 out of Water & Sewer System Consolidated Construction Fund; awarding contract to **REPIPE CONSTRUCTION, LLC dba IPR SOUTH CENTRAL, LLC** for Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering and testing, and contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund (WW4258-60)

**Background:**

**SPECIFIC EXPLANATION:** This project is part of the Neighborhood Sewer rehabilitation Program and is required to renew/replace various deteriorated neighborhood collection systems throughout the City.

**DESCRIPTION/SCOPE:** This project consists of sanitary sewer rehabilitation by cured-in-place pipe method. The contact duration for this project is 540 calendar days.

**LOCATION:** The project area is generally bounded by the City Limits.

**BIDS:** Two (2) bids were received on July 10, 2014 for this project as follows:

| <u>Bidder</u>  | <u>Bid Amount</u> |
|--|-------------------|
| 1. rePipe Construction, LLC dba IPR South Central, LLC | \$3,291,266.20    |
| 2. Layne Inliner, LLC                                  | \$3,553,851.62    |

**AWARD:** It is recommended that this construction contract be awarded to rePipe Construction, LLC dba IPR South Central, LLC, with a low bid of \$3,201,277.20.

**PROJECT COST:** The total cost of this project is \$3,485,830.00 to be appropriated as follows:

|                                |                |
|--------------------------------|----------------|
| · Bid Amount                   | \$3,291,266.20 |
| · Contingencies                | \$164,563.80   |
| · Engineering Testing Services | \$30,000.00    |

Engineering Testing Services will be provided by HTS, Inc. Consultants under a previously approved contract.

**HIRE HOUSTON FIRST:** Hire Houston First does not apply to this expenditure, because it involves the use of federal funds and is subject to specific procurement rules of the federal government.

**PAY or PLAY PROGRAM:** The proposed contract requires compliance with the City's Pay or Play ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides health benefits to eligible employees in compliance with City policy.

**M/WSBE PARTICIPATION:** The contractor has submitted the following proposed program to satisfy the 12.94% MBE goal, and 8.72% WBE goal for this project.

| <u>MBE - Name of Firms</u>   | <u>Work Description</u>           | <u>Amount</u> | <u>% of Contract</u> |
|--|-----------------------------------|---------------|----------------------|
| Chief Solutions, Inc.<br>DBA Chief<br>Environmental<br>Surveys, Inc. | Clean & Television<br>Sewer Lines | \$114,206.94  | 3.47%                |
| Texas Pride Utilities,<br>LLC  | Excavation                        | \$98,737.99   | 3.00%                |



|   |                                |                      |                             |
|---|--------------------------------|----------------------|-----------------------------|
| 5M Rope & Supply, LLC                       | Supplies                       | \$212,944.92         | 9.47%                       |
|   | <b>TOTAL</b>                   | <b>\$425,889.85</b>  | <b>12.94%</b>               |
|   |                                |                      |                             |
| <b><u>WBE – Name of Firms</u></b>           | <b><u>Work Description</u></b> | <b><u>Amount</u></b> | <b><u>% of Contract</u></b> |
| CBL Industries, LLC                         | Asphalt/Concrete Pavement      | \$143,499.21         | 4.36%                       |
| Deanie Hayes, Inc.                          | Supplies                       | \$32,912.66          | 1.00%                       |
| Advantage Manhole & Concrete Services, Inc. | Manhole Rehabilitation         | \$110,586.54         | 3.36%                       |
|   | <b>TOTAL</b>                   | <b>\$286,998.45</b>  | <b>8.72%</b>                |

All known rights-of-way and easement required for this project have been acquired.

**Amount of Funding:**

\$3,485,830.00 - Water & Sewer System Consolidated Construction Fund (8500).

This project is eligible for low interest funding through a State Revolving Fund (SRF) Equivalency loan.

**Source of Funding:**

Enterprise Fund

**Contact Information:**

Jason Iken, P.E.

Senior Assistant Director

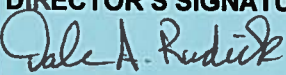


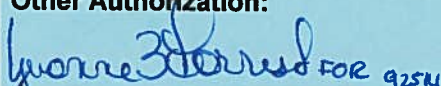
**Phone:** (832) 395-4989

**ATTACHMENTS:**


| Description  | Type                        |
|--|-----------------------------|
| ❏ 20JAI524-rePipe Construction LLC - Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method RCA     | Signed Cover sheet          |
| ❏ 20JAI524-rePipe Construction LLC - Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method A&B     | Backup Material             |
| ❏ 20JAI524-rePipe Construction LLC - Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method ORD     | Ordinance/Resolution/Motion |
| ❏ 20JAI524-rePipe Construction LLC - Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method DT Form | Backup Material             |
| ❏ 20JAI524-rePipe Construction LLC - Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method SAP     | Financial Information       |

TO: Mayor via City Secretary

## REQUEST FOR COUNCIL ACTION

|   |                             |  |  |
|---|-----------------------------|--|--|
| <b>SUBJECT:</b> Contract Award for Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method<br>WBS# R-000266-0224-4  |                             | <b>Page</b><br>1 of 2  | <b>Agenda Item</b><br>#  |
| <b>FROM (Department or other point of origin):</b><br>Department of Public Works and Engineering  |                             | <b>Origination Date</b>  | <b>Agenda Date</b>   |
| <b>DIRECTOR'S SIGNATURE</b><br><br>Dale A. Rudick, P.E.   |                             | <b>Council District affected:</b><br>All   |  |
| <b>For additional information contact:</b><br>Jason Iken, P.E.<br>Senior Assistant Director<br><br><b>Phone:</b> (832) 395-4989                  |                             | <b>Date and identification of prior authorizing Council action:</b><br><br>N/A   |  |
| <b>RECOMMENDATION: (Summary)</b><br>Accept low bid, award construction contract, and appropriate funds.   |                             |  |  |
| <b>Amount and Source of Funding:</b> \$3,485,830.00 from Water and Sewer System Consolidated Construction Fund No. 8500. This project is eligible for low interest funding through a State Revolving Fund (SRF) Equivalency loan. |                             |  |  |
| <b>SPECIFIC EXPLANATION:</b> This project is part of the Neighborhood Sewer Rehabilitation Program and is required to renew/replace various deteriorated neighborhood collection systems throughout the City.                     |                             |  |  |
| <b>DESCRIPTION/SCOPE:</b> This project consists of sanitary sewer rehabilitation by cured-in-place pipe method. The contract duration for this project is 540 calendar days.  |                             |  |  |
| <b>LOCATION:</b> The project area is generally bounded by the City Limits.  |                             |  |  |
| <b>BIDS:</b> Two (2) bids were received on July 10, 2014 for this project as follows:   |                             |  |  |
| <u>Bidder</u>   |                             | <u>Bid Amount</u>  |  |
| 1. rePipe Construction, LLC dba IPR South Central, LLC  |                             | \$3,291,266.20   |  |
| 2. Layne Inliner, LLC   |                             | \$3,553,851.62   |  |
| <b>LTS No. 12975</b><br><b>File/Project No. WW 4258-60</b>  |                             | <b>REQUIRED AUTHORIZATION</b><br><b>CUIC# 20JAI524</b>   |  |
| <b>Finance Department</b>   | <b>Other Authorization:</b> | <b>Other Authorization:</b><br><br>Jun Chang P.E., D.WRE, Deputy Director<br>Public Utilities Division |  |



|             |  |   |                       |
|-------------|--|---|-----------------------|
| <b>Date</b> | <b>Subject:</b> Contract Award for Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method<br>WBS# R-000266-0224-4 | <b>Originator's Initials</b><br> | <b>Page</b><br>2 of 2 |
|-------------|--|---|-----------------------|

**AWARD:** It is recommended that this construction contract be awarded to rePipe Construction, LLC dba IPR South Central, LLC, with a low bid of \$3,291,266.20.

**PROJECT COST:** The total cost of this project is \$3,485,830.00 to be appropriated as follows:

- Bid Amount \$3,291,266.20
- Contingencies \$164,563.80
- Engineering Testing Services \$30,000.00

Engineering Testing Services will be provided by HTS, Inc. Consultants under a previously approved contract.

**HIRE HOUSTON FIRST:** Hire Houston First does not apply to this expenditure, because it involves the use of federal funds and is subject to specific procurement rules of the federal government.

**PAY OR PLAY PROGRAM:** The proposed contract requires compliance with the City's Pay or Play ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides health benefits to eligible employees in compliance with City policy.

**M/WSBE PARTICIPATION:** The contractor has submitted the following proposed program to satisfy the 12.94% MBE goal, and 8.72% WBE goal for this project.

| <u>MBE - Name of Firms</u>                                   | <u>Work Description</u>       | <u>Amount</u>       | <u>% of Contract</u> |
|--|-------------------------------|---------------------|----------------------|
| Chief Solutions, Inc., DBA Chief Environmental Surveys, Inc. | Clean & Televiser Sewer Lines | \$114,206.94        | 3.47%                |
| Texas Pride Utilities, LLC                                   | Excavation                    | \$98,737.99         | 3.00%                |
| 5M Rope & Supply, LLC  | Supplies                      | \$212,944.92        | 6.47%                |
|  | <b>TOTAL</b>                  | <b>\$425,889.85</b> | <b>12.94%</b>        |

| <u>WBE - Name of Firms</u>                  | <u>Work Description</u>   | <u>Amount</u>       | <u>% of Contract</u> |
|---|---------------------------|---------------------|----------------------|
| CBL Industries, LLC                         | Asphalt/Concrete Pavement | \$143,499.21        | 4.36%                |
| Deanie Hayes, Inc.                          | Supplies                  | \$32,912.66         | 1.00%                |
| Advantage Manhole & Concrete Services, Inc. | Manhole Rehabilitation    | \$110,586.54        | 3.36%                |
|   | <b>TOTAL</b>              | <b>\$286,998.41</b> | <b>8.72%</b>         |

All known rights-of-way and easements required for this project have been acquired.

  
DAR:JC:JI:DR:MB:al

File No. WW 4258-60

## CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/26/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - FCC Environmental - 1st

Agenda Item#: 33.

### **Summary:**

ORDINANCE granting to **FCC ENVIRONMENTAL SERVICES, LLC, A Delaware Limited Liability Company**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

### **FIRST READING**

### **Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
2. Big R Trucking, LLC
3. Environmental Industrial Services Group, Inc.
4. Anderson Pollution Control, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

### **Amount of Funding:**

n/a

### **Contact Information:**

Lara Cottingham Phone: (832) 393- 8503

Naelah Yahya Phone: (832) 393- 8530

### **ATTACHMENTS:**

| Description  | Type                        |
|--|-----------------------------|
| <input type="checkbox"/> 9.26.2014 SW ARA Franchise RCA      | Signed Cover sheet          |
| <input type="checkbox"/> 9.26.2014 ARA SW Franchise Captions | Backup Material             |
| <input type="checkbox"/> Anderson Pollution Control - ORD    | Signed Cover sheet          |
| <input type="checkbox"/> ARA-FCC ORD                         | Ordinance/Resolution/Motion |



**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/26/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Naelah Yahya      **Phone:** (832) 393- 8530**Date and identification of prior authorizing  
Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)                      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
2. Big R Trucking, LLC
3. Environmental Industrial Services Group, Inc.
4. Anderson Pollution Control, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**REQUIRED AUTHORIZATION****Finance Director:**

**1. FCC ENVIRONMENTAL SERVICES, LLC**

**AN ORDINANCE GRANTING TO FCC ENVIRONMENTAL SERVICES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**2. BIG R TRUCKING, LLC**

**AN ORDINANCE GRANTING TO BIG R TRUCKING, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**3. ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC.**

**AN ORDINANCE GRANTING TO ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**4. ANDERSON POLLUTION CONTROL, INC.**

**AN ORDINANCE GRANTING TO ANDERSON POLLUTION CONTROL, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**CITY OF HOUSTON, TEXAS, ORDINANCE NO. 2014 - \_\_\_\_\_**

**AN ORDINANCE GRANTING TO ANDERSON POLLUTION CONTROL, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

\* \* \* \* \*

**WHEREAS**, Anderson Pollution Control, Inc., a Texas Corporation, is in the business of collecting, hauling, and transporting solid waste and industrial waste from commercial properties, and has applied pursuant to the requirements of Chapter 39, Code of Ordinances, Houston, Texas, for the City of Houston's (the "City") consent to use its public ways to provide the service within the City; and

**WHEREAS**, the City Council find that it is in the best interests of the City to grant such authority to Anderson Pollution Control, Inc., subject to the terms and conditions provided herein; **NOW, THEREFORE**;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**ARTICLE I.  
DEFINITIONS AND INTERPRETATIONS**

**Section 1.01. Short title.** This ordinance shall be known and may be cited as the Anderson Pollution Control, Inc., Commercial Solid Waste Hauling Franchise.

**Section 1.02. Definitions.** Except as may be specifically defined herein, all terms and phrases used herein shall have the meanings ascribed to them first as defined in Article VII, Chapter 39 of the City's Code of Ordinances (the "Code"), and if not defined therein, second, in Article I, Chapter 39 of the Code, and if not defined therein, third, in Section 1-2, Chapter 1 of the Code, as presently adopted or hereafter amended and all such definitions are hereby incorporated herein; in addition, the following terms, phrases, words, and their derivations shall have the meaning given herein unless more specifically defined within other sections of this franchise. When not inconsistent with the context, words used in the present tense include the future tense; words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

*Article VII* means Article VII of Chapter 39 of the City's Code of Ordinances.

*Authorized Area* means the incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this Franchise.

*Director* means the director of the City's Administration and Regulatory Affairs Department or his designee.

*Effective Date* is defined in **Section 8.14.**

*Franchise* means the *Commercial Solid Waste Hauling Franchise* ordinance described in Section 1.01 and includes the rights, obligations, and privileges granted to the Grantee hereof.

*Grantee* means Anderson Pollution Control, Inc., a Texas Corporation.

*Gross Revenue* means all revenues collected by the Grantee from the collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area.

Gross Revenue includes by way of illustration and not limitation all fees charged customers for any and all services provided by the Grantee related to its collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area, including all delivery charges, hauling charges, disposal charges, and daily rental charges.

Revenue of an affiliate derived from the Grantee's collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area shall be Gross Revenue to the extent the treatment of such revenue as revenue of affiliate and not the Grantee has the effect of avoiding the payment of Franchise Fees which would otherwise be paid to the City. In no event shall revenue of an affiliate be Gross Revenue to the Grantee if such revenue is otherwise subject to Franchise Fees to be paid to the City. Gross Revenue does not include revenue that is not actually received, even if billed (e.g., bad debt).

Gross Revenues shall not include the franchise fees collected pursuant to this Franchise or any taxes or fees which are imposed on any customer by any governmental unit and collected by the Grantee for such governmental unit.

## **ARTICLE II. GRANT OF AUTHORITY AND TERM**

**Section 2.01. Rights granted.** The applicable terms of **Article VII**, as presently adopted or hereafter amended, are hereby incorporated in this Franchise. There is hereby granted to the Grantee, subject to the reasonable and timely compliance by the Grantee with the provisions contained herein, the non-exclusive right and franchise to use the public way specifically for the purpose of collecting, hauling, and transporting commercial solid waste and industrial waste from commercial properties located within the Authorized Area.



**Section 2.02. Term.** The rights granted hereunder shall be for a 10-year term beginning on the Effective Date.

**Section 2.03. Specific limitations.** This Franchise does not grant the Grantee the right to provide, directly or indirectly, any services not specifically authorized by the terms of this Franchise. This Franchise does not grant the Grantee any right to use the public way for the purpose of placing, locating, or maintaining containers for the collection of solid waste or industrial waste.

**Section 2.04. Use of the public way by other persons.**

a. Nothing in this Franchise shall ever be held or construed to confer upon the Grantee exclusive rights or privileges of any nature whatsoever. The City may permit other persons to, and the Grantee acknowledges that the City or other persons may, make use of its public ways for the purpose of collecting, hauling, and transporting solid waste or industrial waste from commercial properties located within the Authorized Area.

b. The authorization of use of the public ways by other parties as provided in the above shall not create any additional liability to the City as a result thereof.

**Section 2.05. Additions to the authorized area by annexation or otherwise.** The Authorized Area shall include the territory currently included within the boundaries of the City, plus any territory annexed by the City during the term of this Franchise. To the extent allowed by law, following an annexation, the Grantee is required to comply with all of the terms of this Franchise with regard to its operations in the annexed area, including without limitation: (i) applying for a franchise within 45 days after the effective date of the annexation; (ii) pursuing the franchise with diligence; and (iii) making payments related to the annexed area pursuant to **Article III** below as of the earlier of the first day of the month following 45 days after the date of the notice of the City's intent to annex, but not earlier than the effective date of the annexation.

**ARTICLE III.  
PAYMENTS TO CITY**

**Section 3.01. Amount and Time of Payment.**

a. As compensation for the right, privilege, and franchise herein conferred, the Grantee shall pay to the City each year during the term of this Franchise a **Franchise Fee** equal to four percent (4%) of the Grantee's Gross Revenues for such year, or portion thereof. The Franchise Fee is payable to the City each calendar quarter in quarterly payments. The Grantee shall deliver payments to the Director by 12:01 p.m. on or before the 45<sup>th</sup> day following the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the Effective Date. Any necessary prorations shall be made. At the time such payments are delivered, the Grantee shall file with the Director a

sworn financial report itemizing the components of the Grantee's Gross Revenues during the payment period. This report shall incorporate a statement reflecting the market value of all "trade" revenue (revenues from exchanges or barter which do not involve monetary compensation). The Franchise Fee payable hereunder shall be exclusive of, and in addition to, all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of the Grantee to the City.

b. The Director shall, upon 15 days' advance notice, have the right to inspect those records of the Grantee the Director deems necessary to determine the Grantee's compliance with any term or condition of this Franchise. In the event the Director determines that the Grantee has not complied with any term or condition of this Franchise, the Director shall have the right to use those records in any manner necessary to resolve the Grantee's noncompliance. Without limitation, the Grantee shall keep comprehensive records relating to the computation of sums due to the City.

c. The Grantee shall pay a late penalty of twelve (12) percent per annum, compounded daily, on Franchise Fee payments, or portions thereof, that are paid subsequent to the payment dates specified in **Subsection a** above. If the City identifies, as a result of an audit under this section, amounts owed by the Grantee from prior periods, the Grantee shall pay, in addition to the amount owed, a late penalty of ten (10) percent per annum on the amount identified.

d. Acceptance of Payment. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Franchise or for the performance of any other obligation hereunder.

#### **ARTICLE IV. RECORDS**

**Section 4.01. Record keeping.** In addition to other records or filings required hereunder or by law, the Grantee shall:

a. Maintain records of its solid waste or industrial waste collection, hauling, and transportation business. Such records shall include but are not limited to a complete listing of all accounts within the Authorized Area, identified by customer name, time periods served, rates charged, service address, telephone number, and account number.

b. File copies, upon the Director's request, of any reports made to federal and state authorities pertaining to the regulation of any solid waste or industrial waste collection, hauling, or transporting activity of the Grantee in the public way.

c. Retain all records necessary for the City to review compliance with this Franchise until the final resolution of a franchise audit and any resulting collection action commenced within two (2) years of the termination date specified in Section 2.02 of this Franchise. The

Grantee shall, at the Grantee's expense, make the records available to the Director for inspection or copying within the City during regular business hours upon ten business day's written notice.

d. Maintain records, accounts, and financial and operating reports in a manner that will allow the City to determine the Grantee's compliance with the terms of this Franchise.

The Director may require the keeping of additional records or accounts reasonably necessary to determine the Grantee's compliance with the terms of this Franchise.

#### **Section 4.02. Confidential information.**

a. The Director shall have the right to inspect Grantee's records, accounts and financial and operating information, including, but not limited to, customer lists, contracts and any other information clearly designated by the Grantee to be confidential or proprietary ("confidential information") to determine the Grantee's compliance with this commercial solid waste franchise. The Director will not reproduce any confidential information not specifically required for documentation of audit issues. In the event that the Director requests a copy of confidential information, the Grantee may redact the customer name, service and billing addresses (other than zip code) and telephone number from any copy of confidential information provided to the Director, provided, however, that the Grantee shall retain the unredacted original of the confidential information until notified by the Director of the close of the audit and shall provide the City with an unredacted copy of confidential information upon request of the Director in the event of an audit dispute. If the Grantee fails or is unable to provide an unredacted copy of confidential information to the Director during an audit dispute, any issue with regard to the unavailable information shall be resolved in favor of the City.

b. The Director shall not disclose any confidential information reproduced for documentation of audit issues unless the City has received a request to review or copy confidential information under the Texas Public Information Act or related law. Upon receipt of such request, the City shall notify the Grantee that a request to review or copy confidential information has been submitted to the City.

### **ARTICLE V. RELEASE, INDEMNIFICATION AND INSURANCE**

**SECTION 5.01 THE GRANTEE HEREBY RELEASES AND DISCHARGES THE CITY FROM AND FURTHER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICERS, DIRECTORS, OFFICIALS, LEGAL REPRESENTATIVES, EMPLOYEES, AND ASSIGNS (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") FROM ANY AND ALL FINES, DEMANDS, DAMAGES, INJURIES OR CLAIMS AND CAUSES OF ACTION ARISING BY REASON OF OR IN CONNECTION WITH:**

- (a) THE ACTUAL OR ALLEGED ERRORS, INTENTIONAL ACTS, OMISSIONS OR NEGLIGENT ACTS OF THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE TO PERFORM UNDER THIS FRANCHISE) RELATING TO THIS FRANCHISE; OR
- (b) ANY ACTION OR FAILURE TO ACT BY THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY THE GRANTEE TO PERFORM UNDER THIS FRANCHISE IN CONNECTION WITH THE SYSTEM OR THIS FRANCHISE; OR
- (c) ANY ACTUAL OR ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CITY (INCLUDING WITHOUT LIMITATION, THE CITY'S CONCURRENT OR SOLE NEGLIGENCE) IN ANY WAY RELATING TO THE ISSUANCE OR ADMINISTRATION OF THIS FRANCHISE, INCLUDING WITHOUT LIMITATION, THE CITY'S RECEIPT OF INSURANCE POLICIES, ANY CITY APPROVALS OF ASSIGNMENTS AND ANY OTHER SIMILAR ACT OF THE CITY IN CONNECTION WITH FULFILLING ITS DUTIES OR ENABLING THE GRANTEE TO BENEFIT FROM THE RIGHTS ALLOWED UNDER THIS FRANCHISE.

THIS INDEMNITY CLAUSE SHALL APPLY TO THE GRANTEE WHETHER THE GRANTEE IS IMMUNE FROM LIABILITY OR NOT. AS TO ANY MATTERS ARISING UNDER THIS INDEMNITY PROVISION FOR WHICH THE GRANTEE HAS AGREED TO INDEMNIFY THE CITY. THE CITY RESERVES THE EXCLUSIVE RIGHT, BUT NOT THE DUTY, TO SELECT COUNSEL OF ITS CHOICE TO REPRESENT ITS INTERESTS AND THE GRANTEE SHALL INDEMNIFY THE CITY FOR THE REASONABLE AND NECESSARY ATTORNEY FEES OF SUCH COUNSEL.

GRANTEE'S LIABILITY UNDER THIS INDEMNITY CLAUSE IS SEPARATE FROM ITS DUTIES UNDER THE INSURANCE PROVISIONS OF THIS FRANCHISE AND

**SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE,  
EXCLUSIVE OF COSTS OF DEFENDING THE CITY.**

(d) The following procedures shall apply to indemnification under this ordinance:

(1) Notice of Claims. If the City or the Grantee receives notice of any claim or circumstances that could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- a. A description of the indemnification event in reasonable detail;
- b. The basis on which indemnification may be due; and
- c. The anticipated amount of indemnified loss;

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that the Grantee is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims. The Grantee may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. The Grantee shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, the Grantee must advise the City as to whether or not it will defend the claim. If the Grantee does not assume the defense, the City shall assume and control the defense, and all defense expenses shall constitute an indemnification loss.

(3) Continued Participation. If the Grantee elects to defend the claim, the City may retain separate counsel at its own expense to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. The Grantee may settle the claim without the consent or agreement of the City unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that the Grantee does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

**Section 5.02. Insurance.**

a. Before the Effective Date of this Franchise, Grantee shall file with the City an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that the Grantee he has qualified as a self-insurer, as the term is defined in the Texas Motor Vehicle Safety Responsibility Act (or any successor) as now in force or hereafter amended.

b. The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of insurance coverage shall be maintained at all times and shall be accepted only in the authorized form that has been promulgated by the City and adopted by the Texas Automobile Insurance Plan Association.

c. The Grantee shall continuously and without interruption, maintain in force the required insurance coverage and limits set forth above as a material term of this Franchise. Failure to do so will be a default under this Franchise, allowing the City, at its option, to terminate this Franchise in accordance with the provisions of **Article VI**.

## **ARTICLE VI. DEFAULT AND TERMINATION**

**Section 6.01. Defaults.** The occurrence of any of the following shall be an event of default under this Franchise:

- a. failure of the Grantee to comply with any material term, condition or provision (including but not limited to timely payment of all sums due hereunder) of this Franchise;
- b. any false statement or misrepresentation as to a material fact in the Grantee's application for this Franchise;
- c. the Grantee's loss of or failure to obtain all licenses, permits, and certification lawfully required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the Grantee's operations under this Franchise and pay all fees associated therewith; or

**Section 6.02. Cure period.** If the Grantee defaults under section 6.01 of this Franchise for a period of 30 days after the Grantee has been notified in writing by the City to cure the specific alleged violation or failure to comply, then the City may follow the procedures set forth herein to declare that all the Grantee's rights and privileges granted by this Franchise are terminated subject to City Council's ratifying ordinance; provided that if the Grantee is alleged to be in violation of any material provision of this Franchise other than the payment of any fee due hereunder and if the Grantee commences efforts to cure the alleged violation(s) within 30 days after receipt of written notice and thereafter prosecutes the curative efforts with reasonable diligence until the curative efforts are completed, then the alleged violation(s) shall not be deemed a default and the City will take no further action at that time.

**Section 6.03. A. Termination.** The City may terminate this Franchise for an uncured default after notice and opportunity to cure as provided in sections 6.01 and 6.02 herein.

Termination is final upon the effective date of City Council's adoption of a City ordinance ratifying the termination. The City's written notice of default and opportunity to cure under section 6.02 herein shall recite that the City Council may vote on an ordinance to terminate this Franchise upon the expiration of 30 days from the date of the notice and shall include the causes and reasons for termination. The Grantee shall be provided the opportunity to appear before the City Council prior to the City Council's consideration of an ordinance to terminate this Franchise. Notice of the time, date, and place when the Grantee may appear before the City Council shall comply with the Texas Open Meetings Law, Chapter 551 of the Texas Government Code. Upon any termination of this Franchise, all amounts owed by the Grantee to City shall immediately become due and payable and Grantee's obligation to pay such sums shall survive the termination of this Franchise.

**B. City's Option to Maintain Franchise in Force.** In the event of an uncured noticed default hereunder, the City, at its sole option and discretion and without waiving such uncured default, may determine to: (a) maintain this Franchise in full force and effect and file suit against Grantee; (b) or pursue such other remedies as may be available to the City at law or in equity.

#### **SECTION 6.04. LIQUIDATED DAMAGES**

**A. THE GRANTEE EXPRESSLY AGREES THAT THE ACTUAL DAMAGES THAT MIGHT BE SUSTAINED BY THE CITY BY REASON OF THE GRANTEE'S VIOLATION OF THIS COMMERCIAL SOLID WASTE HAULING FRANCHISE ARE UNCERTAIN AND WOULD BE DIFFICULT TO ASCERTAIN, AND THAT PAYMENT SPECIFIED HEREIN REPRESENTS REASONABLE LIQUIDATED DAMAGES TO THE CITY FOR THE VIOLATION. IN ADDITION TO ANY OTHER REMEDIES OTHERWISE AVAILABLE TO THE CITY FOR VIOLATIONS OF THIS FRANCHISE, THE CITY MAY CHARGE TO AND COLLECT FROM GRANTEE THE FOLLOWING LIQUIDATED DAMAGES:**

**1. FOR FAILURE TO PROVIDE DATA, DOCUMENTS, REPORTS OR INFORMATION OR TO COOPERATE WITH THE CITY DURING AN AUDIT PURSUANT TO SECTION 3.01 ABOVE, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**2. FOR FAILURE OF THE GRANTEE TO COMPLY WITH THE PAYMENT PROVISIONS OF THIS FRANCHISE, THE CITY'S DAMAGES SHALL BE \$200.00 PER DAY.**

**3. FOR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS FRANCHISE FOR WHICH A PENALTY IS NOT OTHERWISE SPECIFICALLY PROVIDED, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**B. THE DIRECTOR MAY IMPOSE LIQUIDATED DAMAGES HEREUNDER UPON THIRTY (30) DAYS WRITTEN NOTICE TO THE GRANTEE, IF**

**AT THE EXPIRATION OF THE THIRTIETH DAY THE GRANTEE HAS FAILED TO EITHER REMEDY THE VIOLATION OR MAKE ARRANGEMENTS TO DO SO WITH THE APPROVAL OF THE DIRECTOR.**

**C. ANY PAYMENTS TO THE CITY UNDER THIS SECTION SHALL NOT BE CONSIDERED FRANCHISE FEES NOR SHALL THE PAYMENTS BE OFFSET AGAINST THE PAYMENTS REQUIRED PURSUANT TO SECTION 3.01. ABOVE.**

## **ARTICLE VII. TRANSFER OF AUTHORITY**

**Section 7.01. Prohibition.** The rights, privileges, and franchise granted hereunder may not be assigned, in whole or in part, without the prior consent of the City expressed by resolution or ordinance, and then only under the conditions that may therein be prescribed, except as otherwise provided in **Section 7.04**. No assignment in law or otherwise shall be effective until the assignee has filed with the Director an instrument, duly executed, reciting the fact of the assignment, accepting the terms hereof, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of this Franchise for the purposes of this Article.

**Section 7.02. Process.** Upon receipt of a request for consent to an assignment, the Director shall diligently investigate the request in a timely manner and place the request on the City Council agenda at the earliest practicable time. The City Council shall proceed to act on the request within a reasonable period of time. An assignment of this Franchise, other than under section 7.04 of this Franchise, is effective as to this Franchise on the effective date of the Ordinance by which City Council grants its consent to the assignment.

**Section 7.03. Scope of review.** In reviewing a request for assignment, the City may inquire into the legal, technical and financial qualifications of the prospective assignee, and the Grantee shall assist the City in so inquiring. The City may condition any assignment upon the terms and conditions it deems reasonably necessary, provided its approval and any terms and conditions so imposed shall be related to the legal, technical, and financial qualifications of the prospective assignee as well as the Grantee's compliance with the terms hereof.

**Section 7.04. Assignments not requiring approval.** Notwithstanding anything to the contrary contained in this Article, the prior approval of the City shall not be required for any assignment to any entity controlling, controlled by, or under common control with the Grantee, as long as the entity has expertise in the operation of a business for the collection, hauling, and transporting of solid waste and/or industrial waste. The Grantee shall give to the Director written notice of the effective date of any assignment made pursuant to this Section accompanied by documentation demonstrating the assignee's financial resources.

**Section 7.05. Release.** Upon receiving the City's consent to an assignment, or, in the event of an assignment qualifying under **Section 7.04**, upon giving notice under **Section 7.04**,



the Grantee shall be relieved of all conditions, obligations, and liabilities arising under this Franchise from and after the effective date of the assignment. Provided however, Grantee shall never be relieved of its obligation to pay any past due sums owing or to perform any unperformed obligations arising under this Franchise prior to the effective date of the assignment.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.01. Notice.**

**a.** All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received (if by personal delivery) or, on the third business day (Monday–Friday) following deposit in a United States Postal Service post office or receptacle with proper postage affixed and sent by certified mail, return receipt requested, addressed to the respective other party at the address prescribed below or at another address that the receiving party may have theretofore designated by notice to the sending party.

Notice to the City or Director shall be addressed as follows:

Director  
Administration and Regulatory  
Affairs Department  
City of Houston  
611 Walker, 13th Floor  
Houston, Texas 77002  
Fax Number: 713-837-0631

*and to*

City Attorney  
City of Houston Legal Department  
P.O. Box 368  
Houston, Texas 77001-0368  
City Hall Annex Fourth Floor  
900 Bagby, Houston, Texas 77002  
Fax Number: 832.393.6259

Notice to the Grantee shall be addressed as followed:

Davian Ploger, Director  
Anderson Pollution Control, Inc.  
1011 W. Lewis  
Conroe, TX 77301  
Facsimile Number: 713-947-3802

**b.** If a facsimile number is specified above, notice may also be given by facsimile transmission if receipt is proven by a facsimile confirmation statement. Facsimile notice shall be deemed received (if documented by confirmation) on the date received if receipt is before 5:00 p.m. on a business day (Monday-Friday). If the time of receipt is after 5:00 p.m., the notice shall be deemed received on the next calendar business day.

**Section 8.02. Force Majeure.** Other than the Grantee's failure to pay amounts due and payable under this Franchise, the Grantee shall not be in default or be subject to sanction under

any provision of this Franchise when its performance is prevented by Force Majeure. Force Majeure means an event caused by strike or other labor problem; embargo; epidemic; act of God; fire; flood; adverse weather conditions, or other major environmental disturbance; act of military authority; war or civil disorder. Provided, however, that such causes are beyond the reasonable control and without the willful act, fault, failure or negligence of the Grantee. Performance is not excused under this section following the end of the applicable event of Force Majeure.

**Section 8.03. Controlling laws.** This Franchise and the authority granted herein are subject to the applicable provisions of the Constitution and laws of the United States and of the State of Texas, the Charter of the City, Article VI and the provisions of general applicability of the Code of Ordinances, City of Houston. All obligations of the parties hereunder are performable in Harris County, Texas. In the event that any legal proceeding is brought to enforce the terms of this Franchise, it shall be brought in the Texas State District Courts of Harris County, Texas.

**Section 8.04. Cumulative effect.** This Franchise shall be cumulative of all provisions of the Code of Ordinances, City of Houston, as amended, except in those instances where the provisions of this Franchise are in direct conflict with the provisions of the Code of Ordinances, in which instances the provisions of this Franchise shall supersede the conflicting provisions of the Code as they apply to the City.

**Section 8.05. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Franchise are severable, and, if any phrase, clause, sentence, paragraph or section of this Franchise shall be declared void, ineffective or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, the voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Franchise because the same would have been enacted by the City Council without the incorporation herein of any void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**Section 8.06. Entire agreement.** This Franchise merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms, whether written or verbal, antecedent or contemporaneous with the execution hereof.

**Section 8.07. Captions.** Captions contained in this Franchise are for reference purposes only, and therefore will be given no effect in construing this Franchise and are not restrictive of the subject matter of any section of this Franchise. Any reference to gender shall include the masculine, feminine and neutral.

**Section 8.08. Acceptance and approval; consent.** An approval by the Director, or any other instrumentality of the City, of any part of the Grantee's performance shall not be construed to waive compliance with this Franchise or to establish a standard of performance other than required by this Franchise or by law. Where this Franchise contains a provision that either party

approve or consent to any action of the other party, the approval or consent shall not be unreasonably withheld or delayed.

**Section 8.09. Non-waiver.** Failure of either party hereto to insist on the strict performance of any of the terms and conditions hereof or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy accruing as a result of any future default or failure of performance. Waiver of the City's rights hereunder may only be effected by a written instrument signed by the Director or Grantee, and approved by City Council.

**Section 8.10. Written amendment.** This Franchise may be amended only by an ordinance duly adopted by the City Council.

**Section 8.11. Publication.** The City Secretary is hereby directed to publish notice of this Franchise in compliance with Article II, Section 18 of the Charter of the City of Houston, Texas. The Grantee shall pay all costs of publication of notice of this Franchise.

**Section 8.12. Acceptance.** No Franchise shall be read and voted on by City Council unless the Grantee has previously accepted and agreed in writing to the Franchise.

**Section 8.13. Representations and warranties.** In addition to the representations, warranties, and covenants of the Grantee to the City set forth elsewhere herein, the Grantee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Franchise:

**a. Organization, standing and power.** The Grantee is a Texas Corporation, duly organized, validly existing and in good standing under the laws of the State of Texas and is duly authorized to do business in the State of Texas and in the City. The Grantee has all requisite power and authority to own or lease its properties and assets, to conduct its businesses as currently conducted and to execute, deliver and perform this Franchise and all other agreements entered into or delivered in connection with or as contemplated hereby.

**b. Compliance with law.** The Grantee is, to the best of its knowledge and belief, in compliance with all laws, ordinances, decrees and governmental rules and regulations applicable to the business of collecting, hauling and transporting solid waste or industrial waste and has obtained all government licenses, permits, and authorizations necessary for the provision of these services.

**c. Full disclosure.** Without limiting the specific language of any other representation and warranty herein, all information furnished by the Grantee to the City in connection with this Franchise by authorized officers of the Grantee, is, to the best of the Grantee's knowledge and

belief, accurate and complete in all material respects on the date of passage of this Franchise, and includes all material facts required to be stated therein and does not contain any untrue statement of a material fact or omit any material fact necessary to make the statements therein not misleading. There is no fact known to the Grantee, to the best of its knowledge, which materially and adversely affects or in the future could reasonably be expected to materially and adversely affect the business, operations, properties, assets or financial condition of the Grantee which has not been set forth in this Franchise or the other documents, certificates, and instruments delivered to the City by or on behalf of the Grantee specifically for use in connection with the transactions contemplated by this Franchise.

**d. Truthful statements.** The Grantee warrants, to the best of its knowledge and belief, that information provided and statements made in its application for this Franchise were true and correct when made and are true and correct upon execution of acceptance hereof.

**e. Survival of representations and warranties.** All representations and warranties contained in this Franchise shall survive the term of this Franchise.

**Section 8.14. Effective Date.** This Franchise, having been published as required in Article II, Section 18 of the Charter of the City of Houston, shall become effective on the 31<sup>st</sup> day following its final passage by the City Council and approval by the Mayor.

**ACCEPTED AND AGREED TO ON BEHALF OF:**

ANDERSON POLLUTION CONTROL  
(Name of Grantee)

INC. TEXAS  
(Legal Identity and State of Formation)

By: Davan M. Blogg  
(Signature of Officer or Authorized Person)

Title: President/COO  
(Capacity of Signer)

Dated this 20<sup>th</sup> day of November, 2013.



PASSED first reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED second reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED third reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

  
Prepared by Legal Dept.   
YSC/nj 9/19/14 Sr. Assistant City Attorney  
Requested by: Tina Paez, Director, Administration and Regulatory Affairs Department  
L.D. File No. 0371400151001

CITY OF HOUSTON, TEXAS, ORDINANCE NO. 2014 - \_\_\_\_\_

**AN ORDINANCE GRANTING TO FCC ENVIRONMENTAL SERVICES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

\* \* \* \* \*

**WHEREAS**, FCC Environmental Services, LLC, a Delaware Limited Liability Company, is in the business of collecting, hauling, and transporting solid waste and industrial waste from commercial properties, and has applied pursuant to the requirements of Chapter 39, Code of Ordinances, Houston, Texas, for the City of Houston's (the "City") consent to use its public ways to provide the service within the City; and

**WHEREAS**, the City Council find that it is in the best interests of the City to grant such authority to FCC Environmental Services, LLC, subject to the terms and conditions provided herein; **NOW, THEREFORE**;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**ARTICLE I.  
DEFINITIONS AND INTERPRETATIONS**

**Section 1.01. Short title.** This ordinance shall be known and may be cited as the FCC Environmental Services, LLC, Commercial Solid Waste Hauling Franchise.

**Section 1.02. Definitions.** Except as may be specifically defined herein, all terms and phrases used herein shall have the meanings ascribed to them first as defined in Article VII, Chapter 39 of the City's Code of Ordinances (the "Code"), and if not defined therein, second, in Article I, Chapter 39 of the Code, and if not defined therein, third, in Section 1-2, Chapter 1 of the Code, as presently adopted or hereafter amended and all such definitions are hereby incorporated herein; in addition, the following terms, phrases, words, and their derivations shall have the meaning given herein unless more specifically defined within other sections of this franchise. When not inconsistent with the context, words used in the present tense include the future tense; words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

*Article VII* means Article VII of Chapter 39 of the City's Code of Ordinances.

*Authorized Area* means the incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this Franchise.

*Director* means the director of the City's Administration and Regulatory Affairs Department or his designee.

*Effective Date* is defined in **Section 8.14**.

*Franchise* means the *Commercial Solid Waste Hauling Franchise* ordinance described in Section 1.01 and includes the rights, obligations, and privileges granted to the Grantee hereof.

*Grantee* means FCC Environmental Services, LLC, a Delaware Limited Liability Company.

*Gross Revenue* means all revenues collected by the Grantee from the collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area.

Gross Revenue includes by way of illustration and not limitation all fees charged customers for any and all services provided by the Grantee related to its collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area, including all delivery charges, hauling charges, disposal charges, and daily rental charges.

Revenue of an affiliate derived from the Grantee's collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area shall be Gross Revenue to the extent the treatment of such revenue as revenue of affiliate and not the Grantee has the effect of avoiding the payment of Franchise Fees which would otherwise be paid to the City. In no event shall revenue of an affiliate be Gross Revenue to the Grantee if such revenue is otherwise subject to Franchise Fees to be paid to the City. Gross Revenue does not include revenue that is not actually received, even if billed (e.g., bad debt).

Gross Revenues shall not include the franchise fees collected pursuant to this Franchise or any taxes or fees which are imposed on any customer by any governmental unit and collected by the Grantee for such governmental unit.

## **ARTICLE II. GRANT OF AUTHORITY AND TERM**

**Section 2.01. Rights granted.** The applicable terms of **Article VII**, as presently adopted or hereafter amended, are hereby incorporated in this Franchise. There is hereby granted to the Grantee, subject to the reasonable and timely compliance by the Grantee with the provisions contained herein, the non-exclusive right and franchise to use the public way specifically for the purpose of collecting, hauling, and transporting commercial solid waste and

industrial waste from commercial properties located within the Authorized Area.

**Section 2.02. Term.** The rights granted hereunder shall be for a 10-year term beginning on the Effective Date.

**Section 2.03. Specific limitations.** This Franchise does not grant the Grantee the right to provide, directly or indirectly, any services not specifically authorized by the terms of this Franchise. This Franchise does not grant the Grantee any right to use the public way for the purpose of placing, locating, or maintaining containers for the collection of solid waste or industrial waste.

**Section 2.04. Use of the public way by other persons.**

a. Nothing in this Franchise shall ever be held or construed to confer upon the Grantee exclusive rights or privileges of any nature whatsoever. The City may permit other persons to, and the Grantee acknowledges that the City or other persons may, make use of its public ways for the purpose of collecting, hauling, and transporting solid waste or industrial waste from commercial properties located within the Authorized Area.

b. The authorization of use of the public ways by other parties as provided in the above shall not create any additional liability to the City as a result thereof.

**Section 2.05. Additions to the authorized area by annexation or otherwise.** The Authorized Area shall include the territory currently included within the boundaries of the City, plus any territory annexed by the City during the term of this Franchise. To the extent allowed by law, following an annexation, the Grantee is required to comply with all of the terms of this Franchise with regard to its operations in the annexed area, including without limitation: (i) applying for a franchise within 45 days after the effective date of the annexation; (ii) pursuing the franchise with diligence; and (iii) making payments related to the annexed area pursuant to **Article III** below as of the earlier of the first day of the month following 45 days after the date of the notice of the City's intent to annex, but not earlier than the effective date of the annexation.

**ARTICLE III.  
PAYMENTS TO CITY**

**Section 3.01. Amount and Time of Payment.**

a. As compensation for the right, privilege, and franchise herein conferred, the Grantee shall pay to the City each year during the term of this Franchise a **Franchise Fee** equal to four percent (4%) of the Grantee's Gross Revenues for such year, or portion thereof. The Franchise Fee is payable to the City each calendar quarter in quarterly payments. The Grantee shall deliver payments to the Director by 12:01 p.m. on or before the 45<sup>th</sup> day following the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the Effective Date. Any necessary prorations



shall be made. At the time such payments are delivered, the Grantee shall file with the Director a sworn financial report itemizing the components of the Grantee's Gross Revenues during the payment period. This report shall incorporate a statement reflecting the market value of all "trade" revenue (revenues from exchanges or barter which do not involve monetary compensation). The Franchise Fee payable hereunder shall be exclusive of, and in addition to, all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of the Grantee to the City.

b. The Director shall, upon 15 days' advance notice, have the right to inspect those records of the Grantee the Director deems necessary to determine the Grantee's compliance with any term or condition of this Franchise. In the event the Director determines that the Grantee has not complied with any term or condition of this Franchise, the Director shall have the right to use those records in any manner necessary to resolve the Grantee's noncompliance. Without limitation, the Grantee shall keep comprehensive records relating to the computation of sums due to the City.

c. The Grantee shall pay a late penalty of twelve (12) percent per annum, compounded daily, on Franchise Fee payments, or portions thereof, that are paid subsequent to the payment dates specified in **Subsection a** above. If the City identifies, as a result of an audit under this section, amounts owed by the Grantee from prior periods, the Grantee shall pay, in addition to the amount owed, a late penalty of ten (10) percent per annum on the amount identified.

d. Acceptance of Payment. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Franchise or for the performance of any other obligation hereunder.

#### **ARTICLE IV. RECORDS**

**Section 4.01. Record keeping.** In addition to other records or filings required hereunder or by law, the Grantee shall:

a. Maintain records of its solid waste or industrial waste collection, hauling, and transportation business. Such records shall include but are not limited to a complete listing of all accounts within the Authorized Area, identified by customer name, time periods served, rates charged, service address, telephone number, and account number.

b. File copies, upon the Director's request, of any reports made to federal and state authorities pertaining to the regulation of any solid waste or industrial waste collection, hauling, or transporting activity of the Grantee in the public way.

c. Retain all records necessary for the City to review compliance with this Franchise until the final resolution of a franchise audit and any resulting collection action commenced

within two (2) years of the termination date specified in Section 2.02 of this Franchise. The Grantee shall, at the Grantee's expense, make the records available to the Director for inspection or copying within the City during regular business hours upon ten business day's written notice.

d. Maintain records, accounts, and financial and operating reports in a manner that will allow the City to determine the Grantee's compliance with the terms of this Franchise.

The Director may require the keeping of additional records or accounts reasonably necessary to determine the Grantee's compliance with the terms of this Franchise.

#### **Section 4.02. Confidential information.**

a. The Director shall have the right to inspect Grantee's records, accounts and financial and operating information, including, but not limited to, customer lists, contracts and any other information clearly designated by the Grantee to be confidential or proprietary ("confidential information") to determine the Grantee's compliance with this commercial solid waste franchise. The Director will not reproduce any confidential information not specifically required for documentation of audit issues. In the event that the Director requests a copy of confidential information, the Grantee may redact the customer name, service and billing addresses (other than zip code) and telephone number from any copy of confidential information provided to the Director, provided, however, that the Grantee shall retain the unredacted original of the confidential information until notified by the Director of the close of the audit and shall provide the City with an unredacted copy of confidential information upon request of the Director in the event of an audit dispute. If the Grantee fails or is unable to provide an unredacted copy of confidential information to the Director during an audit dispute, any issue with regard to the unavailable information shall be resolved in favor of the City.

b. The Director shall not disclose any confidential information reproduced for documentation of audit issues unless the City has received a request to review or copy confidential information under the Texas Public Information Act or related law. Upon receipt of such request, the City shall notify the Grantee that a request to review or copy confidential information has been submitted to the City.

### **ARTICLE V. RELEASE, INDEMNIFICATION AND INSURANCE**

**SECTION 5.01 THE GRANTEE HEREBY RELEASES AND DISCHARGES THE CITY FROM AND FURTHER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICERS, DIRECTORS, OFFICIALS, LEGAL REPRESENTATIVES, EMPLOYEES, AND ASSIGNS (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") FROM ANY AND ALL FINES, DEMANDS, DAMAGES, INJURIES OR CLAIMS AND CAUSES OF ACTION ARISING BY REASON OF OR IN CONNECTION WITH:**

- (a) THE ACTUAL OR ALLEGED ERRORS, INTENTIONAL ACTS, OMISSIONS OR NEGLIGENT ACTS OF THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE TO PERFORM UNDER THIS FRANCHISE) RELATING TO THIS FRANCHISE; OR
- (b) ANY ACTION OR FAILURE TO ACT BY THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY THE GRANTEE TO PERFORM UNDER THIS FRANCHISE IN CONNECTION WITH THE SYSTEM OR THIS FRANCHISE; OR
- (c) ANY ACTUAL OR ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CITY (INCLUDING WITHOUT LIMITATION, THE CITY'S CONCURRENT OR SOLE NEGLIGENCE) IN ANY WAY RELATING TO THE ISSUANCE OR ADMINISTRATION OF THIS FRANCHISE, INCLUDING WITHOUT LIMITATION, THE CITY'S RECEIPT OF INSURANCE POLICIES, ANY CITY APPROVALS OF ASSIGNMENTS AND ANY OTHER SIMILAR ACT OF THE CITY IN CONNECTION WITH FULFILLING ITS DUTIES OR ENABLING THE GRANTEE TO BENEFIT FROM THE RIGHTS ALLOWED UNDER THIS FRANCHISE.

THIS INDEMNITY CLAUSE SHALL APPLY TO THE GRANTEE WHETHER THE GRANTEE IS IMMUNE FROM LIABILITY OR NOT. AS TO ANY MATTERS ARISING UNDER THIS INDEMNITY PROVISION FOR WHICH THE GRANTEE HAS AGREED TO INDEMNIFY THE CITY. THE CITY RESERVES THE EXCLUSIVE RIGHT, BUT NOT THE DUTY, TO SELECT COUNSEL OF ITS CHOICE TO REPRESENT ITS INTERESTS AND THE GRANTEE SHALL INDEMNIFY THE CITY FOR THE REASONABLE AND NECESSARY ATTORNEY FEES OF SUCH COUNSEL.

GRANTEE'S LIABILITY UNDER THIS INDEMNITY CLAUSE IS SEPARATE FROM ITS DUTIES UNDER THE INSURANCE PROVISIONS OF THIS FRANCHISE AND

**SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE,  
EXCLUSIVE OF COSTS OF DEFENDING THE CITY.**

(d) The following procedures shall apply to indemnification under this ordinance:

(1) Notice of Claims. If the City or the Grantee receives notice of any claim or circumstances that could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- a. A description of the indemnification event in reasonable detail;
- b. The basis on which indemnification may be due; and
- c. The anticipated amount of indemnified loss;

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that the Grantee is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims. The Grantee may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. The Grantee shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, the Grantee must advise the City as to whether or not it will defend the claim. If the Grantee does not assume the defense, the City shall assume and control the defense, and all defense expenses shall constitute an indemnification loss.

(3) Continued Participation. If the Grantee elects to defend the claim, the City may retain separate counsel at its own expense to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. The Grantee may settle the claim without the consent or agreement of the City unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that the Grantee does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

**Section 5.02. Insurance.**

a. Before the Effective Date of this Franchise, Grantee shall file with the City an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that the Grantee he has qualified as a self-insurer, as the term is defined in the Texas Motor Vehicle Safety Responsibility Act (or any successor) as now in force or hereafter amended.

b. The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of insurance coverage shall be maintained at all times and shall be accepted only in the authorized form that has been promulgated by the City and adopted by the Texas Automobile Insurance Plan Association.

c. The Grantee shall continuously and without interruption, maintain in force the required insurance coverage and limits set forth above as a material term of this Franchise. Failure to do so will be a default under this Franchise, allowing the City, at its option, to terminate this Franchise in accordance with the provisions of **Article VI**.

## **ARTICLE VI. DEFAULT AND TERMINATION**

**Section 6.01. Defaults.** The occurrence of any of the following shall be an event of default under this Franchise:

- a. failure of the Grantee to comply with any material term, condition or provision (including but not limited to timely payment of all sums due hereunder) of this Franchise;
- b. any false statement or misrepresentation as to a material fact in the Grantee's application for this Franchise;
- c. the Grantee's loss of or failure to obtain all licenses, permits, and certification lawfully required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the Grantee's operations under this Franchise and pay all fees associated therewith; or

**Section 6.02. Cure period.** If the Grantee defaults under section 6.01 of this Franchise for a period of 30 days after the Grantee has been notified in writing by the City to cure the specific alleged violation or failure to comply, then the City may follow the procedures set forth herein to declare that all the Grantee's rights and privileges granted by this Franchise are terminated subject to City Council's ratifying ordinance; provided that if the Grantee is alleged to be in violation of any material provision of this Franchise other than the payment of any fee due hereunder and if the Grantee commences efforts to cure the alleged violation(s) within 30 days after receipt of written notice and thereafter prosecutes the curative efforts with reasonable diligence until the curative efforts are completed, then the alleged violation(s) shall not be deemed a default and the City will take no further action at that time.

**Section 6.03. A. Termination.** The City may terminate this Franchise for an uncured default after notice and opportunity to cure as provided in sections 6.01 and 6.02 herein.

Termination is final upon the effective date of City Council's adoption of a City ordinance ratifying the termination. The City's written notice of default and opportunity to cure under section 6.02 herein shall recite that the City Council may vote on an ordinance to terminate this Franchise upon the expiration of 30 days from the date of the notice and shall include the causes and reasons for termination. The Grantee shall be provided the opportunity to appear before the City Council prior to the City Council's consideration of an ordinance to terminate this Franchise. Notice of the time, date, and place when the Grantee may appear before the City Council shall comply with the Texas Open Meetings Law, Chapter 551 of the Texas Government Code. Upon any termination of this Franchise, all amounts owed by the Grantee to City shall immediately become due and payable and Grantee's obligation to pay such sums shall survive the termination of this Franchise.

**B. City's Option to Maintain Franchise in Force.** In the event of an uncured noticed default hereunder, the City, at its sole option and discretion and without waiving such uncured default, may determine to: (a) maintain this Franchise in full force and effect and file suit against Grantee; (b) or pursue such other remedies as may be available to the City at law or in equity.

#### **SECTION 6.04. LIQUIDATED DAMAGES**

**A. THE GRANTEE EXPRESSLY AGREES THAT THE ACTUAL DAMAGES THAT MIGHT BE SUSTAINED BY THE CITY BY REASON OF THE GRANTEE'S VIOLATION OF THIS COMMERCIAL SOLID WASTE HAULING FRANCHISE ARE UNCERTAIN AND WOULD BE DIFFICULT TO ASCERTAIN, AND THAT PAYMENT SPECIFIED HEREIN REPRESENTS REASONABLE LIQUIDATED DAMAGES TO THE CITY FOR THE VIOLATION. IN ADDITION TO ANY OTHER REMEDIES OTHERWISE AVAILABLE TO THE CITY FOR VIOLATIONS OF THIS FRANCHISE, THE CITY MAY CHARGE TO AND COLLECT FROM GRANTEE THE FOLLOWING LIQUIDATED DAMAGES:**

**1. FOR FAILURE TO PROVIDE DATA, DOCUMENTS, REPORTS OR INFORMATION OR TO COOPERATE WITH THE CITY DURING AN AUDIT PURSUANT TO SECTION 3.01 ABOVE, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**2. FOR FAILURE OF THE GRANTEE TO COMPLY WITH THE PAYMENT PROVISIONS OF THIS FRANCHISE, THE CITY'S DAMAGES SHALL BE \$200.00 PER DAY.**

**3. FOR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS FRANCHISE FOR WHICH A PENALTY IS NOT OTHERWISE SPECIFICALLY PROVIDED, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**B. THE DIRECTOR MAY IMPOSE LIQUIDATED DAMAGES HEREUNDER UPON THIRTY (30) DAYS WRITTEN NOTICE TO THE GRANTEE, IF**

**AT THE EXPIRATION OF THE THIRTIETH DAY THE GRANTEE HAS FAILED TO EITHER REMEDY THE VIOLATION OR MAKE ARRANGEMENTS TO DO SO WITH THE APPROVAL OF THE DIRECTOR.**

**C. ANY PAYMENTS TO THE CITY UNDER THIS SECTION SHALL NOT BE CONSIDERED FRANCHISE FEES NOR SHALL THE PAYMENTS BE OFFSET AGAINST THE PAYMENTS REQUIRED PURSUANT TO SECTION 3.01. ABOVE.**

## **ARTICLE VII. TRANSFER OF AUTHORITY**

**Section 7.01. Prohibition.** The rights, privileges, and franchise granted hereunder may not be assigned, in whole or in part, without the prior consent of the City expressed by resolution or ordinance, and then only under the conditions that may therein be prescribed, except as otherwise provided in **Section 7.04**. No assignment in law or otherwise shall be effective until the assignee has filed with the Director an instrument, duly executed, reciting the fact of the assignment, accepting the terms hereof, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of this Franchise for the purposes of this Article.

**Section 7.02. Process.** Upon receipt of a request for consent to an assignment, the Director shall diligently investigate the request in a timely manner and place the request on the City Council agenda at the earliest practicable time. The City Council shall proceed to act on the request within a reasonable period of time. An assignment of this Franchise, other than under section 7.04 of this Franchise, is effective as to this Franchise on the effective date of the Ordinance by which City Council grants its consent to the assignment.

**Section 7.03. Scope of review.** In reviewing a request for assignment, the City may inquire into the legal, technical and financial qualifications of the prospective assignee, and the Grantee shall assist the City in so inquiring. The City may condition any assignment upon the terms and conditions it deems reasonably necessary, provided its approval and any terms and conditions so imposed shall be related to the legal, technical, and financial qualifications of the prospective assignee as well as the Grantee's compliance with the terms hereof.

**Section 7.04. Assignments not requiring approval.** Notwithstanding anything to the contrary contained in this Article, the prior approval of the City shall not be required for any assignment to any entity controlling, controlled by, or under common control with the Grantee, as long as the entity has expertise in the operation of a business for the collection, hauling, and transporting of solid waste and/or industrial waste. The Grantee shall give to the Director written notice of the effective date of any assignment made pursuant to this Section accompanied by documentation demonstrating the assignee's financial resources.

**Section 7.05. Release.** Upon receiving the City's consent to an assignment, or, in the event of an assignment qualifying under **Section 7.04**, upon giving notice under **Section 7.04**,

the Grantee shall be relieved of all conditions, obligations, and liabilities arising under this Franchise from and after the effective date of the assignment. Provided however, Grantee shall never be relieved of its obligation to pay any past due sums owing or to perform any unperformed obligations arising under this Franchise prior to the effective date of the assignment.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.01. Notice.**

**a.** All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received (if by personal delivery) or, on the third business day (Monday–Friday) following deposit in a United States Postal Service post office or receptacle with proper postage affixed and sent by certified mail, return receipt requested, addressed to the respective other party at the address prescribed below or at another address that the receiving party may have theretofore designated by notice to the sending party.

Notice to the City or Director shall be addressed as follows:

|                               |               |                                  |
|-------------------------------|---------------|----------------------------------|
| Director                      | <i>and to</i> | City Attorney                    |
| Administration and Regulatory |               | City of Houston Legal Department |
| Affairs Department            |               | P.O. Box 368                     |
| City of Houston               |               | Houston, Texas 77001-0368        |
| 611 Walker, 13th Floor        |               | City Hall Annex Fourth Floor     |
| Houston, Texas 77002          |               | 900 Bagby, Houston, Texas 77002  |
| Fax Number: 713-837-0631      |               | Fax Number: 832.393.6259         |

Notice to the Grantee shall be addressed as followed:

Clint Mikulencak, Director, Field Services  
FCC Environmental Services, LLC  
523 N. Sam Houston Parkway East, Ste. 400  
Houston, Texas 77060  
Facsimile Number: 281-668-3301

**b.** If a facsimile number is specified above, notice may also be given by facsimile transmission if receipt is proven by a facsimile confirmation statement. Facsimile notice shall be deemed received (if documented by confirmation) on the date received if receipt is before 5:00 p.m. on a business day (Monday-Friday). If the time of receipt is after 5:00 p.m., the notice shall be deemed received on the next calendar business day.

**Section 8.02. Force Majeure.** Other than the Grantee's failure to pay amounts due and payable under this Franchise, the Grantee shall not be in default or be subject to sanction under



any provision of this Franchise when its performance is prevented by Force Majeure. Force Majeure means an event caused by strike or other labor problem; embargo; epidemic; act of God; fire; flood; adverse weather conditions, or other major environmental disturbance; act of military authority; war or civil disorder. Provided, however, that such causes are beyond the reasonable control and without the willful act, fault, failure or negligence of the Grantee. Performance is not excused under this section following the end of the applicable event of Force Majeure.

**Section 8.03. Controlling laws.** This Franchise and the authority granted herein are subject to the applicable provisions of the Constitution and laws of the United States and of the State of Texas, the Charter of the City, Article VI and the provisions of general applicability of the Code of Ordinances, City of Houston. All obligations of the parties hereunder are performable in Harris County, Texas. In the event that any legal proceeding is brought to enforce the terms of this Franchise, it shall be brought in the Texas State District Courts of Harris County, Texas.

**Section 8.04. Cumulative effect.** This Franchise shall be cumulative of all provisions of the Code of Ordinances, City of Houston, as amended, except in those instances where the provisions of this Franchise are in direct conflict with the provisions of the Code of Ordinances, in which instances the provisions of this Franchise shall supersede the conflicting provisions of the Code as they apply to the City.

**Section 8.05. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Franchise are severable, and, if any phrase, clause, sentence, paragraph or section of this Franchise shall be declared void, ineffective or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, the voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Franchise because the same would have been enacted by the City Council without the incorporation herein of any void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**Section 8.06. Entire agreement.** This Franchise merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms, whether written or verbal, antecedent or contemporaneous with the execution hereof.

**Section 8.07. Captions.** Captions contained in this Franchise are for reference purposes only, and therefore will be given no effect in construing this Franchise and are not restrictive of the subject matter of any section of this Franchise. Any reference to gender shall include the masculine, feminine and neutral.

**Section 8.08. Acceptance and approval; consent.** An approval by the Director, or any other instrumentality of the City, of any part of the Grantee's performance shall not be construed to waive compliance with this Franchise or to establish a standard of performance other than required by this Franchise or by law. Where this Franchise contains a provision that either party

approve or consent to any action of the other party, the approval or consent shall not be unreasonably withheld or delayed.

**Section 8.09. Non-waiver.** Failure of either party hereto to insist on the strict performance of any of the terms and conditions hereof or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy accruing as a result of any future default or failure of performance. Waiver of the City's rights hereunder may only be effected by a written instrument signed by the Director or Grantee, and approved by City Council.

**Section 8.10. Written amendment.** This Franchise may be amended only by an ordinance duly adopted by the City Council.

**Section 8.11. Publication.** The City Secretary is hereby directed to publish notice of this Franchise in compliance with Article II, Section 18 of the Charter of the City of Houston, Texas. The Grantee shall pay all costs of publication of notice of this Franchise.

**Section 8.12. Acceptance.** No Franchise shall be read and voted on by City Council unless the Grantee has previously accepted and agreed in writing to the Franchise.

**Section 8.13. Representations and warranties.** In addition to the representations, warranties, and covenants of the Grantee to the City set forth elsewhere herein, the Grantee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Franchise:

**a. Organization, standing and power.** The Grantee is a Delaware Limited Liability Company, duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly authorized to do business in the State of Texas and in the City. The Grantee has all requisite power and authority to own or lease its properties and assets, to conduct its businesses as currently conducted and to execute, deliver and perform this Franchise and all other agreements entered into or delivered in connection with or as contemplated hereby.

**b. Compliance with law.** The Grantee is, to the best of its knowledge and belief, in compliance with all laws, ordinances, decrees and governmental rules and regulations applicable to the business of collecting, hauling and transporting solid waste or industrial waste and has obtained all government licenses, permits, and authorizations necessary for the provision of these services.

**c. Full disclosure.** Without limiting the specific language of any other representation and warranty herein, all information furnished by the Grantee to the City in connection with this Franchise by authorized officers of the Grantee, is, to the best of the Grantee's knowledge and

belief, accurate and complete in all material respects on the date of passage of this Franchise, and includes all material facts required to be stated therein and does not contain any untrue statement of a material fact or omit any material fact necessary to make the statements therein not misleading. There is no fact known to the Grantee, to the best of its knowledge, which materially and adversely affects or in the future could reasonably be expected to materially and adversely affect the business, operations, properties, assets or financial condition of the Grantee which has not been set forth in this Franchise or the other documents, certificates, and instruments delivered to the City by or on behalf of the Grantee specifically for use in connection with the transactions contemplated by this Franchise.

**d. Truthful statements.** The Grantee warrants, to the best of its knowledge and belief, that information provided and statements made in its application for this Franchise were true and correct when made and are true and correct upon execution of acceptance hereof.

**e. Survival of representations and warranties.** All representations and warranties contained in this Franchise shall survive the term of this Franchise.

**Section 8.14. Effective Date.** This Franchise, having been published as required in Article II, Section 18 of the Charter of the City of Houston, shall become effective on the 31<sup>st</sup> day following its final passage by the City Council and approval by the Mayor.

ACCEPTED AND AGREED TO ON BEHALF OF:

FCC ENVIRONMENTAL SERVICES LLC.  
(Name of Grantee)

LLC, DE  
(Legal Identity and State of Formation)

By: [Signature]  
(Signature of Officer or Authorized Person)

Title: CEO  
(Capacity of Signer)

Dated this 29<sup>th</sup> day of AUGUST, 2014.

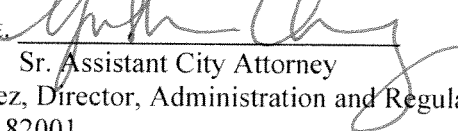
PASSED first reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED second reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED third reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

713C  
Prepared by Legal Dept.   
YSC/jmb 9/18/14 Sr. Assistant City Attorney  
Requested by: Tina Paez, Director, Administration and Regulatory Affairs Department  
L.D. File No. 0371400182001

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/26/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Big R Trucking - 1st

Agenda Item#: 34.

**Summary:**

ORDINANCE granting to **BIG R TRUCKING, LLC, A Texas Limited Liability Company**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

**FIRST READING**

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
2. Big R Trucking, LLC
3. Environmental Industrial Services Group, Inc.
4. Anderson Pollution Control, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**Amount of Funding:**

n/a

**Contact Information:**

Lara Cottingham Phone: (832) 393- 8503

Naelah Yahya Phone: (832) 393- 8530

**ATTACHMENTS:**

| Description  | Type                        |
|--|-----------------------------|
| <input type="checkbox"/> 9.26.2014 SW ARA Franchise RCA      | Signed Cover sheet          |
| <input type="checkbox"/> 9.26.2014 ARA SW Franchise Captions | Backup Material             |
| <input type="checkbox"/> Anderson Pollution Control - ORD    | Signed Cover sheet          |
| <input type="checkbox"/> Big R Trucking Ordinance            | Ordinance/Resolution/Motion |

**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/26/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Naelah Yahya      **Phone:** (832) 393- 8530**Date and identification of prior authorizing  
Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)                      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
2. Big R Trucking, LLC
3. Environmental Industrial Services Group, Inc.
4. Anderson Pollution Control, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**REQUIRED AUTHORIZATION****Finance Director:**



**1. FCC ENVIRONMENTAL SERVICES, LLC**

**AN ORDINANCE GRANTING TO FCC ENVIRONMENTAL SERVICES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**2. BIG R TRUCKING, LLC**

**AN ORDINANCE GRANTING TO BIG R TRUCKING, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**3. ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC.**

**AN ORDINANCE GRANTING TO ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**4. ANDERSON POLLUTION CONTROL, INC.**

**AN ORDINANCE GRANTING TO ANDERSON POLLUTION CONTROL, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**CITY OF HOUSTON, TEXAS, ORDINANCE NO. 2014 - \_\_\_\_\_**

**AN ORDINANCE GRANTING TO ANDERSON POLLUTION CONTROL, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

\* \* \* \* \*

**WHEREAS**, Anderson Pollution Control, Inc., a Texas Corporation, is in the business of collecting, hauling, and transporting solid waste and industrial waste from commercial properties, and has applied pursuant to the requirements of Chapter 39, Code of Ordinances, Houston, Texas, for the City of Houston's (the "City") consent to use its public ways to provide the service within the City; and

**WHEREAS**, the City Council find that it is in the best interests of the City to grant such authority to Anderson Pollution Control, Inc., subject to the terms and conditions provided herein; **NOW, THEREFORE;**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**ARTICLE I.  
DEFINITIONS AND INTERPRETATIONS**

**Section 1.01. Short title.** This ordinance shall be known and may be cited as the Anderson Pollution Control, Inc., Commercial Solid Waste Hauling Franchise.

**Section 1.02. Definitions.** Except as may be specifically defined herein, all terms and phrases used herein shall have the meanings ascribed to them first as defined in Article VII, Chapter 39 of the City's Code of Ordinances (the "Code"), and if not defined therein, second, in Article I, Chapter 39 of the Code, and if not defined therein, third, in Section 1-2, Chapter 1 of the Code, as presently adopted or hereafter amended and all such definitions are hereby incorporated herein; in addition, the following terms, phrases, words, and their derivations shall have the meaning given herein unless more specifically defined within other sections of this franchise. When not inconsistent with the context, words used in the present tense include the future tense; words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

*Article VII* means Article VII of Chapter 39 of the City's Code of Ordinances.



*Authorized Area* means the incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this Franchise.

*Director* means the director of the City's Administration and Regulatory Affairs Department or his designee.

*Effective Date* is defined in **Section 8.14.**

*Franchise* means the *Commercial Solid Waste Hauling Franchise* ordinance described in Section 1.01 and includes the rights, obligations, and privileges granted to the Grantee hereof.

*Grantee* means Anderson Pollution Control, Inc., a Texas Corporation.

*Gross Revenue* means all revenues collected by the Grantee from the collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area.

Gross Revenue includes by way of illustration and not limitation all fees charged customers for any and all services provided by the Grantee related to its collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area, including all delivery charges, hauling charges, disposal charges, and daily rental charges.

Revenue of an affiliate derived from the Grantee's collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area shall be Gross Revenue to the extent the treatment of such revenue as revenue of affiliate and not the Grantee has the effect of avoiding the payment of Franchise Fees which would otherwise be paid to the City. In no event shall revenue of an affiliate be Gross Revenue to the Grantee if such revenue is otherwise subject to Franchise Fees to be paid to the City. Gross Revenue does not include revenue that is not actually received, even if billed (e.g., bad debt).

Gross Revenues shall not include the franchise fees collected pursuant to this Franchise or any taxes or fees which are imposed on any customer by any governmental unit and collected by the Grantee for such governmental unit.

## **ARTICLE II. GRANT OF AUTHORITY AND TERM**

**Section 2.01. Rights granted.** The applicable terms of **Article VII**, as presently adopted or hereafter amended, are hereby incorporated in this Franchise. There is hereby granted to the Grantee, subject to the reasonable and timely compliance by the Grantee with the provisions contained herein, the non-exclusive right and franchise to use the public way specifically for the purpose of collecting, hauling, and transporting commercial solid waste and industrial waste from commercial properties located within the Authorized Area.

**Section 2.02. Term.** The rights granted hereunder shall be for a 10-year term beginning on the Effective Date.

**Section 2.03. Specific limitations.** This Franchise does not grant the Grantee the right to provide, directly or indirectly, any services not specifically authorized by the terms of this Franchise. This Franchise does not grant the Grantee any right to use the public way for the purpose of placing, locating, or maintaining containers for the collection of solid waste or industrial waste.

**Section 2.04. Use of the public way by other persons.**

a. Nothing in this Franchise shall ever be held or construed to confer upon the Grantee exclusive rights or privileges of any nature whatsoever. The City may permit other persons to, and the Grantee acknowledges that the City or other persons may, make use of its public ways for the purpose of collecting, hauling, and transporting solid waste or industrial waste from commercial properties located within the Authorized Area.

b. The authorization of use of the public ways by other parties as provided in the above shall not create any additional liability to the City as a result thereof.

**Section 2.05. Additions to the authorized area by annexation or otherwise.** The Authorized Area shall include the territory currently included within the boundaries of the City, plus any territory annexed by the City during the term of this Franchise. To the extent allowed by law, following an annexation, the Grantee is required to comply with all of the terms of this Franchise with regard to its operations in the annexed area, including without limitation: (i) applying for a franchise within 45 days after the effective date of the annexation; (ii) pursuing the franchise with diligence; and (iii) making payments related to the annexed area pursuant to **Article III** below as of the earlier of the first day of the month following 45 days after the date of the notice of the City's intent to annex, but not earlier than the effective date of the annexation.

**ARTICLE III.  
PAYMENTS TO CITY**

**Section 3.01. Amount and Time of Payment.**

a. As compensation for the right, privilege, and franchise herein conferred, the Grantee shall pay to the City each year during the term of this Franchise a **Franchise Fee** equal to four percent (4%) of the Grantee's Gross Revenues for such year, or portion thereof. The Franchise Fee is payable to the City each calendar quarter in quarterly payments. The Grantee shall deliver payments to the Director by 12:01 p.m. on or before the 45<sup>th</sup> day following the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the Effective Date. Any necessary prorations shall be made. At the time such payments are delivered, the Grantee shall file with the Director a

sworn financial report itemizing the components of the Grantee's Gross Revenues during the payment period. This report shall incorporate a statement reflecting the market value of all "trade" revenue (revenues from exchanges or barter which do not involve monetary compensation). The Franchise Fee payable hereunder shall be exclusive of, and in addition to, all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of the Grantee to the City.

b. The Director shall, upon 15 days' advance notice, have the right to inspect those records of the Grantee the Director deems necessary to determine the Grantee's compliance with any term or condition of this Franchise. In the event the Director determines that the Grantee has not complied with any term or condition of this Franchise, the Director shall have the right to use those records in any manner necessary to resolve the Grantee's noncompliance. Without limitation, the Grantee shall keep comprehensive records relating to the computation of sums due to the City.

c. The Grantee shall pay a late penalty of twelve (12) percent per annum, compounded daily, on Franchise Fee payments, or portions thereof, that are paid subsequent to the payment dates specified in **Subsection a** above. If the City identifies, as a result of an audit under this section, amounts owed by the Grantee from prior periods, the Grantee shall pay, in addition to the amount owed, a late penalty of ten (10) percent per annum on the amount identified.

d. Acceptance of Payment. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Franchise or for the performance of any other obligation hereunder.

#### **ARTICLE IV. RECORDS**

**Section 4.01. Record keeping.** In addition to other records or filings required hereunder or by law, the Grantee shall:

a. Maintain records of its solid waste or industrial waste collection, hauling, and transportation business. Such records shall include but are not limited to a complete listing of all accounts within the Authorized Area, identified by customer name, time periods served, rates charged, service address, telephone number, and account number.

b. File copies, upon the Director's request, of any reports made to federal and state authorities pertaining to the regulation of any solid waste or industrial waste collection, hauling, or transporting activity of the Grantee in the public way.

c. Retain all records necessary for the City to review compliance with this Franchise until the final resolution of a franchise audit and any resulting collection action commenced within two (2) years of the termination date specified in Section 2.02 of this Franchise. The

Grantee shall, at the Grantee's expense, make the records available to the Director for inspection or copying within the City during regular business hours upon ten business day's written notice.

d. Maintain records, accounts, and financial and operating reports in a manner that will allow the City to determine the Grantee's compliance with the terms of this Franchise.

The Director may require the keeping of additional records or accounts reasonably necessary to determine the Grantee's compliance with the terms of this Franchise.

#### **Section 4.02. Confidential information.**

a. The Director shall have the right to inspect Grantee's records, accounts and financial and operating information, including, but not limited to, customer lists, contracts and any other information clearly designated by the Grantee to be confidential or proprietary ("confidential information") to determine the Grantee's compliance with this commercial solid waste franchise. The Director will not reproduce any confidential information not specifically required for documentation of audit issues. In the event that the Director requests a copy of confidential information, the Grantee may redact the customer name, service and billing addresses (other than zip code) and telephone number from any copy of confidential information provided to the Director, provided, however, that the Grantee shall retain the unredacted original of the confidential information until notified by the Director of the close of the audit and shall provide the City with an unredacted copy of confidential information upon request of the Director in the event of an audit dispute. If the Grantee fails or is unable to provide an unredacted copy of confidential information to the Director during an audit dispute, any issue with regard to the unavailable information shall be resolved in favor of the City.

b. The Director shall not disclose any confidential information reproduced for documentation of audit issues unless the City has received a request to review or copy confidential information under the Texas Public Information Act or related law. Upon receipt of such request, the City shall notify the Grantee that a request to review or copy confidential information has been submitted to the City.

### **ARTICLE V. RELEASE, INDEMNIFICATION AND INSURANCE**

**SECTION 5.01 THE GRANTEE HEREBY RELEASES AND DISCHARGES THE CITY FROM AND FURTHER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICERS, DIRECTORS, OFFICIALS, LEGAL REPRESENTATIVES, EMPLOYEES, AND ASSIGNS (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") FROM ANY AND ALL FINES, DEMANDS, DAMAGES, INJURIES OR CLAIMS AND CAUSES OF ACTION ARISING BY REASON OF OR IN CONNECTION WITH:**

- (a) THE ACTUAL OR ALLEGED ERRORS, INTENTIONAL ACTS, OMISSIONS OR NEGLIGENT ACTS OF THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE TO PERFORM UNDER THIS FRANCHISE) RELATING TO THIS FRANCHISE; OR
- (b) ANY ACTION OR FAILURE TO ACT BY THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY THE GRANTEE TO PERFORM UNDER THIS FRANCHISE IN CONNECTION WITH THE SYSTEM OR THIS FRANCHISE; OR
- (c) ANY ACTUAL OR ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CITY (INCLUDING WITHOUT LIMITATION, THE CITY'S CONCURRENT OR SOLE NEGLIGENCE) IN ANY WAY RELATING TO THE ISSUANCE OR ADMINISTRATION OF THIS FRANCHISE, INCLUDING WITHOUT LIMITATION, THE CITY'S RECEIPT OF INSURANCE POLICIES, ANY CITY APPROVALS OF ASSIGNMENTS AND ANY OTHER SIMILAR ACT OF THE CITY IN CONNECTION WITH FULFILLING ITS DUTIES OR ENABLING THE GRANTEE TO BENEFIT FROM THE RIGHTS ALLOWED UNDER THIS FRANCHISE.

THIS INDEMNITY CLAUSE SHALL APPLY TO THE GRANTEE WHETHER THE GRANTEE IS IMMUNE FROM LIABILITY OR NOT. AS TO ANY MATTERS ARISING UNDER THIS INDEMNITY PROVISION FOR WHICH THE GRANTEE HAS AGREED TO INDEMNIFY THE CITY. THE CITY RESERVES THE EXCLUSIVE RIGHT, BUT NOT THE DUTY, TO SELECT COUNSEL OF ITS CHOICE TO REPRESENT ITS INTERESTS AND THE GRANTEE SHALL INDEMNIFY THE CITY FOR THE REASONABLE AND NECESSARY ATTORNEY FEES OF SUCH COUNSEL.

GRANTEE'S LIABILITY UNDER THIS INDEMNITY CLAUSE IS SEPARATE FROM ITS DUTIES UNDER THE INSURANCE PROVISIONS OF THIS FRANCHISE AND

**SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE,  
EXCLUSIVE OF COSTS OF DEFENDING THE CITY.**

(d) The following procedures shall apply to indemnification under this ordinance:

(1) Notice of Claims. If the City or the Grantee receives notice of any claim or circumstances that could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- a. A description of the indemnification event in reasonable detail;
- b. The basis on which indemnification may be due; and
- c. The anticipated amount of indemnified loss;

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that the Grantee is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims. The Grantee may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. The Grantee shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, the Grantee must advise the City as to whether or not it will defend the claim. If the Grantee does not assume the defense, the City shall assume and control the defense, and all defense expenses shall constitute an indemnification loss.

(3) Continued Participation. If the Grantee elects to defend the claim, the City may retain separate counsel at its own expense to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. The Grantee may settle the claim without the consent or agreement of the City unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that the Grantee does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

**Section 5.02. Insurance.**

a. Before the Effective Date of this Franchise, Grantee shall file with the City an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that the Grantee he has qualified as a self-insurer, as the term is defined in the Texas Motor Vehicle Safety Responsibility Act (or any successor) as now in force or hereafter amended.

b. The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of insurance coverage shall be maintained at all times and shall be accepted only in the authorized form that has been promulgated by the City and adopted by the Texas Automobile Insurance Plan Association.

c. The Grantee shall continuously and without interruption, maintain in force the required insurance coverage and limits set forth above as a material term of this Franchise. Failure to do so will be a default under this Franchise, allowing the City, at its option, to terminate this Franchise in accordance with the provisions of **Article VI**.

## **ARTICLE VI. DEFAULT AND TERMINATION**

**Section 6.01. Defaults.** The occurrence of any of the following shall be an event of default under this Franchise:

- a. failure of the Grantee to comply with any material term, condition or provision (including but not limited to timely payment of all sums due hereunder) of this Franchise;
- b. any false statement or misrepresentation as to a material fact in the Grantee's application for this Franchise;
- c. the Grantee's loss of or failure to obtain all licenses, permits, and certification lawfully required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the Grantee's operations under this Franchise and pay all fees associated therewith; or

**Section 6.02. Cure period.** If the Grantee defaults under section 6.01 of this Franchise for a period of 30 days after the Grantee has been notified in writing by the City to cure the specific alleged violation or failure to comply, then the City may follow the procedures set forth herein to declare that all the Grantee's rights and privileges granted by this Franchise are terminated subject to City Council's ratifying ordinance; provided that if the Grantee is alleged to be in violation of any material provision of this Franchise other than the payment of any fee due hereunder and if the Grantee commences efforts to cure the alleged violation(s) within 30 days after receipt of written notice and thereafter prosecutes the curative efforts with reasonable diligence until the curative efforts are completed, then the alleged violation(s) shall not be deemed a default and the City will take no further action at that time.

**Section 6.03. A. Termination.** The City may terminate this Franchise for an uncured default after notice and opportunity to cure as provided in sections 6.01 and 6.02 herein.

Termination is final upon the effective date of City Council's adoption of a City ordinance ratifying the termination. The City's written notice of default and opportunity to cure under section 6.02 herein shall recite that the City Council may vote on an ordinance to terminate this Franchise upon the expiration of 30 days from the date of the notice and shall include the causes and reasons for termination. The Grantee shall be provided the opportunity to appear before the City Council prior to the City Council's consideration of an ordinance to terminate this Franchise. Notice of the time, date, and place when the Grantee may appear before the City Council shall comply with the Texas Open Meetings Law, Chapter 551 of the Texas Government Code. Upon any termination of this Franchise, all amounts owed by the Grantee to City shall immediately become due and payable and Grantee's obligation to pay such sums shall survive the termination of this Franchise.

**B. City's Option to Maintain Franchise in Force.** In the event of an uncured noticed default hereunder, the City, at its sole option and discretion and without waiving such uncured default, may determine to: (a) maintain this Franchise in full force and effect and file suit against Grantee; (b) or pursue such other remedies as may be available to the City at law or in equity.

#### **SECTION 6.04. LIQUIDATED DAMAGES**

**A. THE GRANTEE EXPRESSLY AGREES THAT THE ACTUAL DAMAGES THAT MIGHT BE SUSTAINED BY THE CITY BY REASON OF THE GRANTEE'S VIOLATION OF THIS COMMERCIAL SOLID WASTE HAULING FRANCHISE ARE UNCERTAIN AND WOULD BE DIFFICULT TO ASCERTAIN, AND THAT PAYMENT SPECIFIED HEREIN REPRESENTS REASONABLE LIQUIDATED DAMAGES TO THE CITY FOR THE VIOLATION. IN ADDITION TO ANY OTHER REMEDIES OTHERWISE AVAILABLE TO THE CITY FOR VIOLATIONS OF THIS FRANCHISE, THE CITY MAY CHARGE TO AND COLLECT FROM GRANTEE THE FOLLOWING LIQUIDATED DAMAGES:**

**1. FOR FAILURE TO PROVIDE DATA, DOCUMENTS, REPORTS OR INFORMATION OR TO COOPERATE WITH THE CITY DURING AN AUDIT PURSUANT TO SECTION 3.01 ABOVE, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**2. FOR FAILURE OF THE GRANTEE TO COMPLY WITH THE PAYMENT PROVISIONS OF THIS FRANCHISE, THE CITY'S DAMAGES SHALL BE \$200.00 PER DAY.**

**3. FOR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS FRANCHISE FOR WHICH A PENALTY IS NOT OTHERWISE SPECIFICALLY PROVIDED, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**B. THE DIRECTOR MAY IMPOSE LIQUIDATED DAMAGES HEREUNDER UPON THIRTY (30) DAYS WRITTEN NOTICE TO THE GRANTEE, IF**



**AT THE EXPIRATION OF THE THIRTIETH DAY THE GRANTEE HAS FAILED TO EITHER REMEDY THE VIOLATION OR MAKE ARRANGEMENTS TO DO SO WITH THE APPROVAL OF THE DIRECTOR.**

**C. ANY PAYMENTS TO THE CITY UNDER THIS SECTION SHALL NOT BE CONSIDERED FRANCHISE FEES NOR SHALL THE PAYMENTS BE OFFSET AGAINST THE PAYMENTS REQUIRED PURSUANT TO SECTION 3.01. ABOVE.**

## **ARTICLE VII. TRANSFER OF AUTHORITY**

**Section 7.01. Prohibition.** The rights, privileges, and franchise granted hereunder may not be assigned, in whole or in part, without the prior consent of the City expressed by resolution or ordinance, and then only under the conditions that may therein be prescribed, except as otherwise provided in **Section 7.04**. No assignment in law or otherwise shall be effective until the assignee has filed with the Director an instrument, duly executed, reciting the fact of the assignment, accepting the terms hereof, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of this Franchise for the purposes of this Article.

**Section 7.02. Process.** Upon receipt of a request for consent to an assignment, the Director shall diligently investigate the request in a timely manner and place the request on the City Council agenda at the earliest practicable time. The City Council shall proceed to act on the request within a reasonable period of time. An assignment of this Franchise, other than under section 7.04 of this Franchise, is effective as to this Franchise on the effective date of the Ordinance by which City Council grants its consent to the assignment.

**Section 7.03. Scope of review.** In reviewing a request for assignment, the City may inquire into the legal, technical and financial qualifications of the prospective assignee, and the Grantee shall assist the City in so inquiring. The City may condition any assignment upon the terms and conditions it deems reasonably necessary, provided its approval and any terms and conditions so imposed shall be related to the legal, technical, and financial qualifications of the prospective assignee as well as the Grantee's compliance with the terms hereof.

**Section 7.04. Assignments not requiring approval.** Notwithstanding anything to the contrary contained in this Article, the prior approval of the City shall not be required for any assignment to any entity controlling, controlled by, or under common control with the Grantee, as long as the entity has expertise in the operation of a business for the collection, hauling, and transporting of solid waste and/or industrial waste. The Grantee shall give to the Director written notice of the effective date of any assignment made pursuant to this Section accompanied by documentation demonstrating the assignee's financial resources.

**Section 7.05. Release.** Upon receiving the City's consent to an assignment, or, in the event of an assignment qualifying under **Section 7.04**, upon giving notice under **Section 7.04**,

the Grantee shall be relieved of all conditions, obligations, and liabilities arising under this Franchise from and after the effective date of the assignment. Provided however, Grantee shall never be relieved of its obligation to pay any past due sums owing or to perform any unperformed obligations arising under this Franchise prior to the effective date of the assignment.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.01. Notice.**

**a.** All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received (if by personal delivery) or, on the third business day (Monday–Friday) following deposit in a United States Postal Service post office or receptacle with proper postage affixed and sent by certified mail, return receipt requested, addressed to the respective other party at the address prescribed below or at another address that the receiving party may have theretofore designated by notice to the sending party.

Notice to the City or Director shall be addressed as follows:

Director  
Administration and Regulatory  
Affairs Department  
City of Houston  
611 Walker, 13th Floor  
Houston, Texas 77002  
Fax Number: 713-837-0631

*and to*

City Attorney  
City of Houston Legal Department  
P.O. Box 368  
Houston, Texas 77001-0368  
City Hall Annex Fourth Floor  
900 Bagby, Houston, Texas 77002  
Fax Number: 832.393.6259

Notice to the Grantee shall be addressed as followed:

Davian Ploger, Director  
Anderson Pollution Control, Inc.  
1011 W. Lewis  
Conroe, TX 77301  
Facsimile Number: 713-947-3802

**b.** If a facsimile number is specified above, notice may also be given by facsimile transmission if receipt is proven by a facsimile confirmation statement. Facsimile notice shall be deemed received (if documented by confirmation) on the date received if receipt is before 5:00 p.m. on a business day (Monday-Friday). If the time of receipt is after 5:00 p.m., the notice shall be deemed received on the next calendar business day.

**Section 8.02. Force Majeure.** Other than the Grantee's failure to pay amounts due and payable under this Franchise, the Grantee shall not be in default or be subject to sanction under

any provision of this Franchise when its performance is prevented by Force Majeure. Force Majeure means an event caused by strike or other labor problem; embargo; epidemic; act of God; fire; flood; adverse weather conditions, or other major environmental disturbance; act of military authority; war or civil disorder. Provided, however, that such causes are beyond the reasonable control and without the willful act, fault, failure or negligence of the Grantee. Performance is not excused under this section following the end of the applicable event of Force Majeure.

**Section 8.03. Controlling laws.** This Franchise and the authority granted herein are subject to the applicable provisions of the Constitution and laws of the United States and of the State of Texas, the Charter of the City, Article VI and the provisions of general applicability of the Code of Ordinances, City of Houston. All obligations of the parties hereunder are performable in Harris County, Texas. In the event that any legal proceeding is brought to enforce the terms of this Franchise, it shall be brought in the Texas State District Courts of Harris County, Texas.

**Section 8.04. Cumulative effect.** This Franchise shall be cumulative of all provisions of the Code of Ordinances, City of Houston, as amended, except in those instances where the provisions of this Franchise are in direct conflict with the provisions of the Code of Ordinances, in which instances the provisions of this Franchise shall supersede the conflicting provisions of the Code as they apply to the City.

**Section 8.05. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Franchise are severable, and, if any phrase, clause, sentence, paragraph or section of this Franchise shall be declared void, ineffective or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, the voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Franchise because the same would have been enacted by the City Council without the incorporation herein of any void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**Section 8.06. Entire agreement.** This Franchise merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms, whether written or verbal, antecedent or contemporaneous with the execution hereof.

**Section 8.07. Captions.** Captions contained in this Franchise are for reference purposes only, and therefore will be given no effect in construing this Franchise and are not restrictive of the subject matter of any section of this Franchise. Any reference to gender shall include the masculine, feminine and neutral.

**Section 8.08. Acceptance and approval; consent.** An approval by the Director, or any other instrumentality of the City, of any part of the Grantee's performance shall not be construed to waive compliance with this Franchise or to establish a standard of performance other than required by this Franchise or by law. Where this Franchise contains a provision that either party

approve or consent to any action of the other party, the approval or consent shall not be unreasonably withheld or delayed.

**Section 8.09. Non-waiver.** Failure of either party hereto to insist on the strict performance of any of the terms and conditions hereof or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy accruing as a result of any future default or failure of performance. Waiver of the City's rights hereunder may only be effected by a written instrument signed by the Director or Grantee, and approved by City Council.

**Section 8.10. Written amendment.** This Franchise may be amended only by an ordinance duly adopted by the City Council.

**Section 8.11. Publication.** The City Secretary is hereby directed to publish notice of this Franchise in compliance with Article II, Section 18 of the Charter of the City of Houston, Texas. The Grantee shall pay all costs of publication of notice of this Franchise.

**Section 8.12. Acceptance.** No Franchise shall be read and voted on by City Council unless the Grantee has previously accepted and agreed in writing to the Franchise.

**Section 8.13. Representations and warranties.** In addition to the representations, warranties, and covenants of the Grantee to the City set forth elsewhere herein, the Grantee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Franchise:

**a. Organization, standing and power.** The Grantee is a Texas Corporation, duly organized, validly existing and in good standing under the laws of the State of Texas and is duly authorized to do business in the State of Texas and in the City. The Grantee has all requisite power and authority to own or lease its properties and assets, to conduct its businesses as currently conducted and to execute, deliver and perform this Franchise and all other agreements entered into or delivered in connection with or as contemplated hereby.

**b. Compliance with law.** The Grantee is, to the best of its knowledge and belief, in compliance with all laws, ordinances, decrees and governmental rules and regulations applicable to the business of collecting, hauling and transporting solid waste or industrial waste and has obtained all government licenses, permits, and authorizations necessary for the provision of these services.

**c. Full disclosure.** Without limiting the specific language of any other representation and warranty herein, all information furnished by the Grantee to the City in connection with this Franchise by authorized officers of the Grantee, is, to the best of the Grantee's knowledge and

belief, accurate and complete in all material respects on the date of passage of this Franchise, and includes all material facts required to be stated therein and does not contain any untrue statement of a material fact or omit any material fact necessary to make the statements therein not misleading. There is no fact known to the Grantee, to the best of its knowledge, which materially and adversely affects or in the future could reasonably be expected to materially and adversely affect the business, operations, properties, assets or financial condition of the Grantee which has not been set forth in this Franchise or the other documents, certificates, and instruments delivered to the City by or on behalf of the Grantee specifically for use in connection with the transactions contemplated by this Franchise.

**d. Truthful statements.** The Grantee warrants, to the best of its knowledge and belief, that information provided and statements made in its application for this Franchise were true and correct when made and are true and correct upon execution of acceptance hereof.

**e. Survival of representations and warranties.** All representations and warranties contained in this Franchise shall survive the term of this Franchise.

**Section 8.14. Effective Date.** This Franchise, having been published as required in Article II, Section 18 of the Charter of the City of Houston, shall become effective on the 31<sup>st</sup> day following its final passage by the City Council and approval by the Mayor.

**ACCEPTED AND AGREED TO ON BEHALF OF:**

ANDERSON POLLUTION CONTROL  
(Name of Grantee)

INC. TEXAS  
(Legal Identity and State of Formation)

By: Davan M. Blogg  
(Signature of Officer or Authorized Person)

Title: President/COO  
(Capacity of Signer)

Dated this 20<sup>th</sup> day of November, 2013.


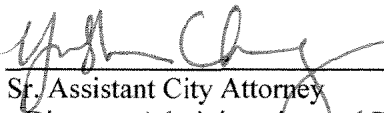
PASSED first reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED second reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED third reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

  
Prepared by Legal Dept. 

YSC/nj 9/19/14

Sr. Assistant City Attorney

Requested by: Tina Paez, Director, Administration and Regulatory Affairs Department

L.D. File No. 0371400151001

CITY OF HOUSTON, TEXAS, ORDINANCE NO. 2014 - \_\_\_\_\_

**AN ORDINANCE GRANTING TO BIG R TRUCKING, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

\* \* \* \* \*

**WHEREAS**, Big R Trucking, LLC, a Texas Limited Liability Company, is in the business of collecting, hauling, and transporting solid waste and industrial waste from commercial properties, and has applied pursuant to the requirements of Chapter 39, Code of Ordinances, Houston, Texas, for the City of Houston's (the "City") consent to use its public ways to provide the service within the City; and

**WHEREAS**, the City Council find that it is in the best interests of the City to grant such authority to Big R Trucking, LLC, subject to the terms and conditions provided herein; **NOW, THEREFORE**;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**ARTICLE I.  
DEFINITIONS AND INTERPRETATIONS**

**Section 1.01. Short title.** This ordinance shall be known and may be cited as the Big R Trucking, LLC, Commercial Solid Waste Hauling Franchise.

**Section 1.02. Definitions.** Except as may be specifically defined herein, all terms and phrases used herein shall have the meanings ascribed to them first as defined in Article VII, Chapter 39 of the City's Code of Ordinances (the "Code"), and if not defined therein, second, in Article I, Chapter 39 of the Code, and if not defined therein, third, in Section 1-2, Chapter 1 of the Code, as presently adopted or hereafter amended and all such definitions are hereby incorporated herein; in addition, the following terms, phrases, words, and their derivations shall have the meaning given herein unless more specifically defined within other sections of this franchise. When not inconsistent with the context, words used in the present tense include the future tense; words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

*Article VII* means Article VII of Chapter 39 of the City's Code of Ordinances.

*Authorized Area* means the incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this Franchise.

*Director* means the director of the City's Administration and Regulatory Affairs Department or his designee.

*Effective Date* is defined in **Section 8.14**.

*Franchise* means the *Commercial Solid Waste Hauling Franchise* ordinance described in Section 1.01 and includes the rights, obligations, and privileges granted to the Grantee hereof.

*Grantee* means Big R Trucking, LLC, a Texas Limited Liability Company.

*Gross Revenue* means all revenues collected by the Grantee from the collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area.

Gross Revenue includes by way of illustration and not limitation all fees charged customers for any and all services provided by the Grantee related to its collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area, including all delivery charges, hauling charges, disposal charges, and daily rental charges.

Revenue of an affiliate derived from the Grantee's collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area shall be Gross Revenue to the extent the treatment of such revenue as revenue of affiliate and not the Grantee has the effect of avoiding the payment of Franchise Fees which would otherwise be paid to the City. In no event shall revenue of an affiliate be Gross Revenue to the Grantee if such revenue is otherwise subject to Franchise Fees to be paid to the City. Gross Revenue does not include revenue that is not actually received, even if billed (e.g., bad debt).

Gross Revenues shall not include the franchise fees collected pursuant to this Franchise or any taxes or fees which are imposed on any customer by any governmental unit and collected by the Grantee for such governmental unit.

## **ARTICLE II. GRANT OF AUTHORITY AND TERM**

**Section 2.01. Rights granted.**—The applicable terms of **Article VII**, as presently adopted or hereafter amended, are hereby incorporated in this Franchise. There is hereby granted to the Grantee, subject to the reasonable and timely compliance by the Grantee with the provisions contained herein, the non-exclusive right and franchise to use the public way specifically for the purpose of collecting, hauling, and transporting commercial solid waste and industrial waste from commercial properties located within the Authorized Area.



**Section 2.02. Term.** The rights granted hereunder shall be for a 10-year term beginning on the Effective Date.

**Section 2.03. Specific limitations.** This Franchise does not grant the Grantee the right to provide, directly or indirectly, any services not specifically authorized by the terms of this Franchise. This Franchise does not grant the Grantee any right to use the public way for the purpose of placing, locating, or maintaining containers for the collection of solid waste or industrial waste.

**Section 2.04. Use of the public way by other persons.**

a. Nothing in this Franchise shall ever be held or construed to confer upon the Grantee exclusive rights or privileges of any nature whatsoever. The City may permit other persons to, and the Grantee acknowledges that the City or other persons may, make use of its public ways for the purpose of collecting, hauling, and transporting solid waste or industrial waste from commercial properties located within the Authorized Area.

b. The authorization of use of the public ways by other parties as provided in the above shall not create any additional liability to the City as a result thereof.

**Section 2.05. Additions to the authorized area by annexation or otherwise.** The Authorized Area shall include the territory currently included within the boundaries of the City, plus any territory annexed by the City during the term of this Franchise. To the extent allowed by law, following an annexation, the Grantee is required to comply with all of the terms of this Franchise with regard to its operations in the annexed area, including without limitation: (i) applying for a franchise within 45 days after the effective date of the annexation; (ii) pursuing the franchise with diligence; and (iii) making payments related to the annexed area pursuant to **Article III** below as of the earlier of the first day of the month following 45 days after the date of the notice of the City's intent to annex, but not earlier than the effective date of the annexation.

**ARTICLE III.  
PAYMENTS TO CITY**

**Section 3.01. Amount and Time of Payment.**

a. As compensation for the right, privilege, and franchise herein conferred, the Grantee shall pay to the City each year during the term of this Franchise a **Franchise Fee** equal to four percent (4%) of the Grantee's Gross Revenues for such year, or portion thereof. The Franchise Fee is payable to the City each calendar quarter in quarterly payments. The Grantee shall deliver payments to the Director by 12:01 p.m. on or before the 45<sup>th</sup> day following the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the Effective Date. Any necessary prorations shall be made. At the time such payments are delivered, the Grantee shall file with the Director a

sworn financial report itemizing the components of the Grantee's Gross Revenues during the payment period. This report shall incorporate a statement reflecting the market value of all "trade" revenue (revenues from exchanges or barter which do not involve monetary compensation). The Franchise Fee payable hereunder shall be exclusive of, and in addition to, all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of the Grantee to the City.

b. The Director shall, upon 15 days' advance notice, have the right to inspect those records of the Grantee the Director deems necessary to determine the Grantee's compliance with any term or condition of this Franchise. In the event the Director determines that the Grantee has not complied with any term or condition of this Franchise, the Director shall have the right to use those records in any manner necessary to resolve the Grantee's noncompliance. Without limitation, the Grantee shall keep comprehensive records relating to the computation of sums due to the City.

c. The Grantee shall pay a late penalty of twelve (12) percent per annum, compounded daily, on Franchise Fee payments, or portions thereof, that are paid subsequent to the payment dates specified in **Subsection a** above. If the City identifies, as a result of an audit under this section, amounts owed by the Grantee from prior periods, the Grantee shall pay, in addition to the amount owed, a late penalty of ten (10) percent per annum on the amount identified.

d. Acceptance of Payment. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Franchise or for the performance of any other obligation hereunder.

#### **ARTICLE IV. RECORDS**

**Section 4.01. Record keeping.** In addition to other records or filings required hereunder or by law, the Grantee shall:

a. Maintain records of its solid waste or industrial waste collection, hauling, and transportation business. Such records shall include but are not limited to a complete listing of all accounts within the Authorized Area, identified by customer name, time periods served, rates charged, service address, telephone number, and account number.

b. File copies, upon the Director's request, of any reports made to federal and state authorities pertaining to the regulation of any solid waste or industrial waste collection, hauling, or transporting activity of the Grantee in the public way.

c. Retain all records necessary for the City to review compliance with this Franchise until the final resolution of a franchise audit and any resulting collection action commenced within two (2) years of the termination date specified in Section 2.02 of this Franchise. The

Grantee shall, at the Grantee's expense, make the records available to the Director for inspection or copying within the City during regular business hours upon ten business day's written notice.

d. Maintain records, accounts, and financial and operating reports in a manner that will allow the City to determine the Grantee's compliance with the terms of this Franchise.

The Director may require the keeping of additional records or accounts reasonably necessary to determine the Grantee's compliance with the terms of this Franchise.

#### **Section 4.02. Confidential information.**

a. The Director shall have the right to inspect Grantee's records, accounts and financial and operating information, including, but not limited to, customer lists, contracts and any other information clearly designated by the Grantee to be confidential or proprietary ("confidential information") to determine the Grantee's compliance with this commercial solid waste franchise. The Director will not reproduce any confidential information not specifically required for documentation of audit issues. In the event that the Director requests a copy of confidential information, the Grantee may redact the customer name, service and billing addresses (other than zip code) and telephone number from any copy of confidential information provided to the Director, provided, however, that the Grantee shall retain the unredacted original of the confidential information until notified by the Director of the close of the audit and shall provide the City with an unredacted copy of confidential information upon request of the Director in the event of an audit dispute. If the Grantee fails or is unable to provide an unredacted copy of confidential information to the Director during an audit dispute, any issue with regard to the unavailable information shall be resolved in favor of the City.

b. The Director shall not disclose any confidential information reproduced for documentation of audit issues unless the City has received a request to review or copy confidential information under the Texas Public Information Act or related law. Upon receipt of such request, the City shall notify the Grantee that a request to review or copy confidential information has been submitted to the City.

### **ARTICLE V. RELEASE, INDEMNIFICATION AND INSURANCE**

**SECTION 5.01 THE GRANTEE HEREBY RELEASES AND DISCHARGES THE CITY FROM AND FURTHER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICERS, DIRECTORS, OFFICIALS, LEGAL REPRESENTATIVES, EMPLOYEES, AND ASSIGNS (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") FROM ANY AND ALL FINES, DEMANDS, DAMAGES, INJURIES OR CLAIMS AND CAUSES OF ACTION ARISING BY REASON OF OR IN CONNECTION WITH:**

- (a) **THE ACTUAL OR ALLEGED ERRORS, INTENTIONAL ACTS, OMISSIONS OR NEGLIGENT ACTS OF THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE TO PERFORM UNDER THIS FRANCHISE) RELATING TO THIS FRANCHISE; OR**
- (b) **ANY ACTION OR FAILURE TO ACT BY THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY THE GRANTEE TO PERFORM UNDER THIS FRANCHISE IN CONNECTION WITH THE SYSTEM OR THIS FRANCHISE; OR**
- (c) **ANY ACTUAL OR ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CITY (INCLUDING WITHOUT LIMITATION, THE CITY'S CONCURRENT OR SOLE NEGLIGENCE) IN ANY WAY RELATING TO THE ISSUANCE OR ADMINISTRATION OF THIS FRANCHISE, INCLUDING WITHOUT LIMITATION, THE CITY'S RECEIPT OF INSURANCE POLICIES, ANY CITY APPROVALS OF ASSIGNMENTS AND ANY OTHER SIMILAR ACT OF THE CITY IN CONNECTION WITH FULFILLING ITS DUTIES OR ENABLING THE GRANTEE TO BENEFIT FROM THE RIGHTS ALLOWED UNDER THIS FRANCHISE.**

**THIS INDEMNITY CLAUSE SHALL APPLY TO THE GRANTEE WHETHER THE GRANTEE IS IMMUNE FROM LIABILITY OR NOT. AS TO ANY MATTERS ARISING UNDER THIS INDEMNITY PROVISION FOR WHICH THE GRANTEE HAS AGREED TO INDEMNIFY THE CITY. THE CITY RESERVES THE EXCLUSIVE RIGHT, BUT NOT THE DUTY, TO SELECT COUNSEL OF ITS CHOICE TO REPRESENT ITS INTERESTS AND THE GRANTEE SHALL INDEMNIFY THE CITY FOR THE REASONABLE AND NECESSARY ATTORNEY FEES OF SUCH COUNSEL.**

**GRANTEE'S LIABILITY UNDER THIS INDEMNITY CLAUSE IS SEPARATE FROM ITS DUTIES UNDER THE INSURANCE PROVISIONS OF THIS FRANCHISE AND**

**SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE,  
EXCLUSIVE OF COSTS OF DEFENDING THE CITY.**

(d) The following procedures shall apply to indemnification under this ordinance:

(1) Notice of Claims. If the City or the Grantee receives notice of any claim or circumstances that could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- a. A description of the indemnification event in reasonable detail;
- b. The basis on which indemnification may be due; and
- c. The anticipated amount of indemnified loss;

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that the Grantee is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims. The Grantee may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. The Grantee shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, the Grantee must advise the City as to whether or not it will defend the claim. If the Grantee does not assume the defense, the City shall assume and control the defense, and all defense expenses shall constitute an indemnification loss.

(3) Continued Participation. If the Grantee elects to defend the claim, the City may retain separate counsel at its own expense to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. The Grantee may settle the claim without the consent or agreement of the City unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that the Grantee does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

**Section 5.02. Insurance.**

a. Before the Effective Date of this Franchise, Grantee shall file with the City an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that the Grantee he has qualified as a self-insurer, as the term is defined in the Texas Motor Vehicle Safety Responsibility Act (or any successor) as now in force or hereafter amended.



b. The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of insurance coverage shall be maintained at all times and shall be accepted only in the authorized form that has been promulgated by the City and adopted by the Texas Automobile Insurance Plan Association.

c. The Grantee shall continuously and without interruption, maintain in force the required insurance coverage and limits set forth above as a material term of this Franchise. Failure to do so will be a default under this Franchise, allowing the City, at its option, to terminate this Franchise in accordance with the provisions of **Article VI**.

## **ARTICLE VI. DEFAULT AND TERMINATION**

**Section 6.01. Defaults.** The occurrence of any of the following shall be an event of default under this Franchise:

- a. failure of the Grantee to comply with any material term, condition or provision (including but not limited to timely payment of all sums due hereunder) of this Franchise;
- b. any false statement or misrepresentation as to a material fact in the Grantee's application for this Franchise;
- c. the Grantee's loss of or failure to obtain all licenses, permits, and certification lawfully required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the Grantee's operations under this Franchise and pay all fees associated therewith; or

**Section 6.02. Cure period.** If the Grantee defaults under section 6.01 of this Franchise for a period of 30 days after the Grantee has been notified in writing by the City to cure the specific alleged violation or failure to comply, then the City may follow the procedures set forth herein to declare that all the Grantee's rights and privileges granted by this Franchise are terminated subject to City Council's ratifying ordinance; provided that if the Grantee is alleged to be in violation of any material provision of this Franchise other than the payment of any fee due hereunder and if the Grantee commences efforts to cure the alleged violation(s) within 30 days after receipt of written notice and thereafter prosecutes the curative efforts with reasonable diligence until the curative efforts are completed, then the alleged violation(s) shall not be deemed a default and the City will take no further action at that time.

**Section 6.03. A. Termination.** The City may terminate this Franchise for an uncured default after notice and opportunity to cure as provided in sections 6.01 and 6.02 herein.

Termination is final upon the effective date of City Council's adoption of a City ordinance ratifying the termination. The City's written notice of default and opportunity to cure under section 6.02 herein shall recite that the City Council may vote on an ordinance to terminate this Franchise upon the expiration of 30 days from the date of the notice and shall include the causes and reasons for termination. The Grantee shall be provided the opportunity to appear before the City Council prior to the City Council's consideration of an ordinance to terminate this Franchise. Notice of the time, date, and place when the Grantee may appear before the City Council shall comply with the Texas Open Meetings Law, Chapter 551 of the Texas Government Code. Upon any termination of this Franchise, all amounts owed by the Grantee to City shall immediately become due and payable and Grantee's obligation to pay such sums shall survive the termination of this Franchise.

**B. City's Option to Maintain Franchise in Force.** In the event of an uncured noticed default hereunder, the City, at its sole option and discretion and without waiving such uncured default, may determine to: (a) maintain this Franchise in full force and effect and file suit against Grantee; (b) or pursue such other remedies as may be available to the City at law or in equity.

#### **SECTION 6.04. LIQUIDATED DAMAGES**

**A. THE GRANTEE EXPRESSLY AGREES THAT THE ACTUAL DAMAGES THAT MIGHT BE SUSTAINED BY THE CITY BY REASON OF THE GRANTEE'S VIOLATION OF THIS COMMERCIAL SOLID WASTE HAULING FRANCHISE ARE UNCERTAIN AND WOULD BE DIFFICULT TO ASCERTAIN, AND THAT PAYMENT SPECIFIED HEREIN REPRESENTS REASONABLE LIQUIDATED DAMAGES TO THE CITY FOR THE VIOLATION. IN ADDITION TO ANY OTHER REMEDIES OTHERWISE AVAILABLE TO THE CITY FOR VIOLATIONS OF THIS FRANCHISE, THE CITY MAY CHARGE TO AND COLLECT FROM GRANTEE THE FOLLOWING LIQUIDATED DAMAGES:**

**1. FOR FAILURE TO PROVIDE DATA, DOCUMENTS, REPORTS OR INFORMATION OR TO COOPERATE WITH THE CITY DURING AN AUDIT PURSUANT TO SECTION 3.01 ABOVE, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**2. FOR FAILURE OF THE GRANTEE TO COMPLY WITH THE PAYMENT PROVISIONS OF THIS FRANCHISE, THE CITY'S DAMAGES SHALL BE \$200.00 PER DAY.**

**3. FOR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS FRANCHISE FOR WHICH A PENALTY IS NOT OTHERWISE SPECIFICALLY PROVIDED, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**B. THE DIRECTOR MAY IMPOSE LIQUIDATED DAMAGES HEREUNDER UPON THIRTY (30) DAYS WRITTEN NOTICE TO THE GRANTEE, IF**

**AT THE EXPIRATION OF THE THIRTIETH DAY THE GRANTEE HAS FAILED TO EITHER REMEDY THE VIOLATION OR MAKE ARRANGEMENTS TO DO SO WITH THE APPROVAL OF THE DIRECTOR.**

**C. ANY PAYMENTS TO THE CITY UNDER THIS SECTION SHALL NOT BE CONSIDERED FRANCHISE FEES NOR SHALL THE PAYMENTS BE OFFSET AGAINST THE PAYMENTS REQUIRED PURSUANT TO SECTION 3.01. ABOVE.**

## **ARTICLE VII. TRANSFER OF AUTHORITY**

**Section 7.01. Prohibition.** The rights, privileges, and franchise granted hereunder may not be assigned, in whole or in part, without the prior consent of the City expressed by resolution or ordinance, and then only under the conditions that may therein be prescribed, except as otherwise provided in **Section 7.04**. No assignment in law or otherwise shall be effective until the assignee has filed with the Director an instrument, duly executed, reciting the fact of the assignment, accepting the terms hereof, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of this Franchise for the purposes of this Article.

**Section 7.02. Process.** Upon receipt of a request for consent to an assignment, the Director shall diligently investigate the request in a timely manner and place the request on the City Council agenda at the earliest practicable time. The City Council shall proceed to act on the request within a reasonable period of time. An assignment of this Franchise, other than under section 7.04 of this Franchise, is effective as to this Franchise on the effective date of the Ordinance by which City Council grants its consent to the assignment.

**Section 7.03. Scope of review.** In reviewing a request for assignment, the City may inquire into the legal, technical and financial qualifications of the prospective assignee, and the Grantee shall assist the City in so inquiring. The City may condition any assignment upon the terms and conditions it deems reasonably necessary, provided its approval and any terms and conditions so imposed shall be related to the legal, technical, and financial qualifications of the prospective assignee as well as the Grantee's compliance with the terms hereof.

**Section 7.04. Assignments not requiring approval.** Notwithstanding anything to the contrary contained in this Article, the prior approval of the City shall not be required for any assignment to any entity controlling, controlled by, or under common control with the Grantee, as long as the entity has expertise in the operation of a business for the collection, hauling, and transporting of solid waste and/or industrial waste. The Grantee shall give to the Director written notice of the effective date of any assignment made pursuant to this Section accompanied by documentation demonstrating the assignee's financial resources.

**Section 7.05. Release.** Upon receiving the City's consent to an assignment, or, in the event of an assignment qualifying under **Section 7.04**, upon giving notice under **Section 7.04**,



the Grantee shall be relieved of all conditions, obligations, and liabilities arising under this Franchise from and after the effective date of the assignment. Provided however, Grantee shall never be relieved of its obligation to pay any past due sums owing or to perform any unperformed obligations arising under this Franchise prior to the effective date of the assignment.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.01. Notice.**

**a.** All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received (if by personal delivery) or, on the third business day (Monday-Friday) following deposit in a United States Postal Service post office or receptacle with proper postage affixed and sent by certified mail, return receipt requested, addressed to the respective other party at the address prescribed below or at another address that the receiving party may have theretofore designated by notice to the sending party.

Notice to the City or Director shall be addressed as follows:

Director  
Administration and Regulatory  
Affairs Department  
City of Houston  
611 Walker, 13th Floor  
Houston, Texas 77002  
Fax Number: 713-837-0631

*and to*

City Attorney  
City of Houston Legal Department  
P.O. Box 368  
Houston, Texas 77001-0368  
City Hall Annex Fourth Floor  
900 Bagby, Houston, Texas 77002  
Fax Number: 832.393.6259

Notice to the Grantee shall be addressed as followed:

Ramiro Rosas, Owner  
Big R Trucking, LLC  
3905 Cetti Street  
Houston, Texas 77009  
Facsimile Number: None

**b.** If a facsimile number is specified above, notice may also be given by facsimile transmission if receipt is proven by a facsimile confirmation statement. Facsimile notice shall be deemed received (if documented by confirmation) on the date received if receipt is before 5:00 p.m. on a business day (Monday-Friday). If the time of receipt is after 5:00 p.m., the notice shall be deemed received on the next calendar business day.

**Section 8.02. Force Majeure.** Other than the Grantee's failure to pay amounts due and payable under this Franchise, the Grantee shall not be in default or be subject to sanction under

any provision of this Franchise when its performance is prevented by Force Majeure. Force Majeure means an event caused by strike or other labor problem; embargo; epidemic; act of God; fire; flood; adverse weather conditions, or other major environmental disturbance; act of military authority; war or civil disorder. Provided, however, that such causes are beyond the reasonable control and without the willful act, fault, failure or negligence of the Grantee. Performance is not excused under this section following the end of the applicable event of Force Majeure.

**Section 8.03. Controlling laws.** This Franchise and the authority granted herein are subject to the applicable provisions of the Constitution and laws of the United States and of the State of Texas, the Charter of the City, Article VI and the provisions of general applicability of the Code of Ordinances, City of Houston. All obligations of the parties hereunder are performable in Harris County, Texas. In the event that any legal proceeding is brought to enforce the terms of this Franchise, it shall be brought in the Texas State District Courts of Harris County, Texas.

**Section 8.04. Cumulative effect.** This Franchise shall be cumulative of all provisions of the Code of Ordinances, City of Houston, as amended, except in those instances where the provisions of this Franchise are in direct conflict with the provisions of the Code of Ordinances, in which instances the provisions of this Franchise shall supersede the conflicting provisions of the Code as they apply to the City.

**Section 8.05. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Franchise are severable, and, if any phrase, clause, sentence, paragraph or section of this Franchise shall be declared void, ineffective or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, the voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Franchise because the same would have been enacted by the City Council without the incorporation herein of any void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**Section 8.06. Entire agreement.** This Franchise merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms, whether written or verbal, antecedent or contemporaneous with the execution hereof.

**Section 8.07. Captions.** Captions contained in this Franchise are for reference purposes only, and therefore will be given no effect in construing this Franchise and are not restrictive of the subject matter of any section of this Franchise. Any reference to gender shall include the masculine, feminine and neutral.

**Section 8.08. Acceptance and approval; consent.** An approval by the Director, or any other instrumentality of the City, of any part of the Grantee's performance shall not be construed to waive compliance with this Franchise or to establish a standard of performance other than required by this Franchise or by law. Where this Franchise contains a provision that either party

approve or consent to any action of the other party, the approval or consent shall not be unreasonably withheld or delayed.

**Section 8.09. Non-waiver.** Failure of either party hereto to insist on the strict performance of any of the terms and conditions hereof or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy accruing as a result of any future default or failure of performance. Waiver of the City's rights hereunder may only be effected by a written instrument signed by the Director or Grantee, and approved by City Council.

**Section 8.10. Written amendment.** This Franchise may be amended only by an ordinance duly adopted by the City Council.

**Section 8.11. Publication.** The City Secretary is hereby directed to publish notice of this Franchise in compliance with Article II, Section 18 of the Charter of the City of Houston, Texas. The Grantee shall pay all costs of publication of notice of this Franchise.

**Section 8.12. Acceptance.** No Franchise shall be read and voted on by City Council unless the Grantee has previously accepted and agreed in writing to the Franchise.

**Section 8.13. Representations and warranties.** In addition to the representations, warranties, and covenants of the Grantee to the City set forth elsewhere herein, the Grantee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Franchise:

**a. Organization, standing and power.** The Grantee is a Texas Limited Liability Company, duly organized, validly existing and in good standing under the laws of the State of Texas and is duly authorized to do business in the State of Texas and in the City. The Grantee has all requisite power and authority to own or lease its properties and assets, to conduct its businesses as currently conducted and to execute, deliver and perform this Franchise and all other agreements entered into or delivered in connection with or as contemplated hereby.

**b. Compliance with law.** The Grantee is, to the best of its knowledge and belief, in compliance with all laws, ordinances, decrees and governmental rules and regulations applicable to the business of collecting, hauling and transporting solid waste or industrial waste and has obtained all government licenses, permits, and authorizations necessary for the provision of these services.

**c. Full disclosure.** Without limiting the specific language of any other representation and warranty herein, all information furnished by the Grantee to the City in connection with this Franchise by authorized officers of the Grantee, is, to the best of the Grantee's knowledge and

belief, accurate and complete in all material respects on the date of passage of this Franchise, and includes all material facts required to be stated therein and does not contain any untrue statement of a material fact or omit any material fact necessary to make the statements therein not misleading. There is no fact known to the Grantee, to the best of its knowledge, which materially and adversely affects or in the future could reasonably be expected to materially and adversely affect the business, operations, properties, assets or financial condition of the Grantee which has not been set forth in this Franchise or the other documents, certificates, and instruments delivered to the City by or on behalf of the Grantee specifically for use in connection with the transactions contemplated by this Franchise.

**d. Truthful statements.** The Grantee warrants, to the best of its knowledge and belief, that information provided and statements made in its application for this Franchise were true and correct when made and are true and correct upon execution of acceptance hereof.

**e. Survival of representations and warranties.** All representations and warranties contained in this Franchise shall survive the term of this Franchise.

**Section 8.14. Effective Date.** This Franchise, having been published as required in Article II, Section 18 of the Charter of the City of Houston, shall become effective on the 31<sup>st</sup> day following its final passage by the City Council and approval by the Mayor.

**ACCEPTED AND AGREED TO ON BEHALF OF:**

Big R Trucking, LLC  
(Name of Grantee)

LLC and Texas  
(Legal Identity and State of Formation)

By: [Signature]  
(Signature of Officer or Authorized Person)

Title: owner / Manager  
(Capacity of Signer)

Dated this 17 day of July, 2014.

PASSED first reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED second reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED third reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

Mc  
Prepared by Legal Dept.

YSC/cm 9/18/14

  
Sr. Assistant City Attorney

Requested by: Tina Paez, Director, Administration and Regulatory Affairs Department

L.D. File No. 0371400175001

## CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/26/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Environmental Industrial - 1st

Agenda Item#: 35.

### **Summary:**

ORDINANCE granting to **ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

### **FIRST READING**

### **Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
2. Big R Trucking, LLC
3. Environmental Industrial Services Group, Inc.
4. Anderson Pollution Control, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

### **Amount of Funding:**

n/a

### **Contact Information:**

Lara Cottingham Phone: (832) 393- 8503

Naelah Yahya Phone: (832) 393- 8530

### **ATTACHMENTS:**

| Description  | Type                        |
|--|-----------------------------|
| <input type="checkbox"/> 9.26.2014 SW ARA Franchise RCA      | Signed Cover sheet          |
| <input type="checkbox"/> 9.26.2014 ARA SW Franchise Captions | Backup Material             |
| <input type="checkbox"/> Anderson Pollution Control - ORD    | Ordinance/Resolution/Motion |
| <input type="checkbox"/> Environmental Industrial - ORD      | Signed Cover sheet          |



**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/26/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Naelah Yahya      **Phone:** (832) 393- 8530**Date and identification of prior authorizing Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)                      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
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**REQUIRED AUTHORIZATION****Finance Director:**

**1. FCC ENVIRONMENTAL SERVICES, LLC**

**AN ORDINANCE GRANTING TO FCC ENVIRONMENTAL SERVICES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**2. BIG R TRUCKING, LLC**

**AN ORDINANCE GRANTING TO BIG R TRUCKING, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**3. ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC.**

**AN ORDINANCE GRANTING TO ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**4. ANDERSON POLLUTION CONTROL, INC.**

**AN ORDINANCE GRANTING TO ANDERSON POLLUTION CONTROL, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**



CITY OF HOUSTON, TEXAS, ORDINANCE NO. 2014 - \_\_\_\_\_

**AN ORDINANCE GRANTING TO ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

\* \* \* \* \*

**WHEREAS**, Environmental Industrial Services Group, Inc., a Texas Corporation, is in the business of collecting, hauling, and transporting solid waste and industrial waste from commercial properties, and has applied pursuant to the requirements of Chapter 39, Code of Ordinances, Houston, Texas, for the City of Houston's (the "City") consent to use its public ways to provide the service within the City; and

**WHEREAS**, the City Council find that it is in the best interests of the City to grant such authority to Environmental Industrial Services Group, Inc., subject to the terms and conditions provided herein; **NOW, THEREFORE;**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**ARTICLE I.  
DEFINITIONS AND INTERPRETATIONS**

**Section 1.01. Short title.** This ordinance shall be known and may be cited as the Environmental Industrial Services Group, Inc., Commercial Solid Waste Hauling Franchise.

**Section 1.02. Definitions.** Except as may be specifically defined herein, all terms and phrases used herein shall have the meanings ascribed to them first as defined in Article VII, Chapter 39 of the City's Code of Ordinances (the "Code"), and if not defined therein, second, in Article I, Chapter 39 of the Code, and if not defined therein, third, in Section 1-2, Chapter 1 of the Code, as presently adopted or hereafter amended and all such definitions are hereby incorporated herein; in addition, the following terms, phrases, words, and their derivations shall have the meaning given herein unless more specifically defined within other sections of this franchise. When not inconsistent with the context, words used in the present tense include the future tense; words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

*Article VII* means Article VII of Chapter 39 of the City's Code of Ordinances.

*Authorized Area* means the incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this Franchise.

*Director* means the director of the City's Administration and Regulatory Affairs Department or his designee.

*Effective Date* is defined in **Section 8.14**.

*Franchise* means the *Commercial Solid Waste Hauling Franchise* ordinance described in Section 1.01 and includes the rights, obligations, and privileges granted to the Grantee hereof.

*Grantee* means Environmental Industrial Services Group, Inc., a Texas Corporation.

*Gross Revenue* means all revenues collected by the Grantee from the collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area.

Gross Revenue includes by way of illustration and not limitation all fees charged customers for any and all services provided by the Grantee related to its collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area, including all delivery charges, hauling charges, disposal charges, and daily rental charges.

Revenue of an affiliate derived from the Grantee's collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area shall be Gross Revenue to the extent the treatment of such revenue as revenue of affiliate and not the Grantee has the effect of avoiding the payment of Franchise Fees which would otherwise be paid to the City. In no event shall revenue of an affiliate be Gross Revenue to the Grantee if such revenue is otherwise subject to Franchise Fees to be paid to the City. Gross Revenue does not include revenue that is not actually received, even if billed (e.g., bad debt).

Gross Revenues shall not include the franchise fees collected pursuant to this Franchise or any taxes or fees which are imposed on any customer by any governmental unit and collected by the Grantee for such governmental unit.

## **ARTICLE II. GRANT OF AUTHORITY AND TERM**

**Section 2.01. Rights granted.** The applicable terms of **Article VII**, as presently adopted or hereafter amended, are hereby incorporated in this Franchise. There is hereby granted to the Grantee, subject to the reasonable and timely compliance by the Grantee with the provisions contained herein, the non-exclusive right and franchise to use the public way specifically for the purpose of collecting, hauling, and transporting commercial solid waste and industrial waste from commercial properties located within the Authorized Area.

industrial waste from commercial properties located within the Authorized Area.

**Section 2.02. Term.** The rights granted hereunder shall be for a 10-year term beginning on the Effective Date.

**Section 2.03. Specific limitations.** This Franchise does not grant the Grantee the right to provide, directly or indirectly, any services not specifically authorized by the terms of this Franchise. This Franchise does not grant the Grantee any right to use the public way for the purpose of placing, locating, or maintaining containers for the collection of solid waste or industrial waste.

**Section 2.04. Use of the public way by other persons.**

a. Nothing in this Franchise shall ever be held or construed to confer upon the Grantee exclusive rights or privileges of any nature whatsoever. The City may permit other persons to, and the Grantee acknowledges that the City or other persons may, make use of its public ways for the purpose of collecting, hauling, and transporting solid waste or industrial waste from commercial properties located within the Authorized Area.

b. The authorization of use of the public ways by other parties as provided in the above shall not create any additional liability to the City as a result thereof.

**Section 2.05. Additions to the authorized area by annexation or otherwise.** The Authorized Area shall include the territory currently included within the boundaries of the City, plus any territory annexed by the City during the term of this Franchise. To the extent allowed by law, following an annexation, the Grantee is required to comply with all of the terms of this Franchise with regard to its operations in the annexed area, including without limitation: (i) applying for a franchise within 45 days after the effective date of the annexation; (ii) pursuing the franchise with diligence; and (iii) making payments related to the annexed area pursuant to **Article III** below as of the earlier of the first day of the month following 45 days after the date of the notice of the City's intent to annex, but not earlier than the effective date of the annexation.

**ARTICLE III.  
PAYMENTS TO CITY**

**Section 3.01. Amount and Time of Payment.**

a. As compensation for the right, privilege, and franchise herein conferred, the Grantee shall pay to the City each year during the term of this Franchise a **Franchise Fee** equal to four percent (4%) of the Grantee's Gross Revenues for such year, or portion thereof. The Franchise Fee is payable to the City each calendar quarter in quarterly payments. The Grantee shall deliver payments to the Director by 12:01 p.m. on or before the 45<sup>th</sup> day following the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the Effective Date. Any necessary prorrations

shall be made. At the time such payments are delivered, the Grantee shall file with the Director a sworn financial report itemizing the components of the Grantee's Gross Revenues during the payment period. This report shall incorporate a statement reflecting the market value of all "trade" revenue (revenues from exchanges or barter which do not involve monetary compensation). The Franchise Fee payable hereunder shall be exclusive of, and in addition to, all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of the Grantee to the City.

b. The Director shall, upon 15 days' advance notice, have the right to inspect those records of the Grantee the Director deems necessary to determine the Grantee's compliance with any term or condition of this Franchise. In the event the Director determines that the Grantee has not complied with any term or condition of this Franchise, the Director shall have the right to use those records in any manner necessary to resolve the Grantee's noncompliance. Without limitation, the Grantee shall keep comprehensive records relating to the computation of sums due to the City.

c. The Grantee shall pay a late penalty of twelve (12) percent per annum, compounded daily, on Franchise Fee payments, or portions thereof, that are paid subsequent to the payment dates specified in **Subsection a** above. If the City identifies, as a result of an audit under this section, amounts owed by the Grantee from prior periods, the Grantee shall pay, in addition to the amount owed, a late penalty of ten (10) percent per annum on the amount identified.

d. Acceptance of Payment. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Franchise or for the performance of any other obligation hereunder.

#### **ARTICLE IV. RECORDS**

**Section 4.01. Record keeping.** In addition to other records or filings required hereunder or by law, the Grantee shall:

a. Maintain records of its solid waste or industrial waste collection, hauling, and transportation business. Such records shall include but are not limited to a complete listing of all accounts within the Authorized Area, identified by customer name, time periods served, rates charged, service address, telephone number, and account number.

b. File copies, upon the Director's request, of any reports made to federal and state authorities pertaining to the regulation of any solid waste or industrial waste collection, hauling, or transporting activity of the Grantee in the public way.

c. Retain all records necessary for the City to review compliance with this Franchise until the final resolution of a franchise audit and any resulting collection action commenced



within two (2) years of the termination date specified in Section 2.02 of this Franchise. The Grantee shall, at the Grantee's expense, make the records available to the Director for inspection or copying within the City during regular business hours upon ten business day's written notice.

d. Maintain records, accounts, and financial and operating reports in a manner that will allow the City to determine the Grantee's compliance with the terms of this Franchise.

The Director may require the keeping of additional records or accounts reasonably necessary to determine the Grantee's compliance with the terms of this Franchise.

#### **Section 4.02. Confidential information.**

a. The Director shall have the right to inspect Grantee's records, accounts and financial and operating information, including, but not limited to, customer lists, contracts and any other information clearly designated by the Grantee to be confidential or proprietary ("confidential information") to determine the Grantee's compliance with this commercial solid waste franchise. The Director will not reproduce any confidential information not specifically required for documentation of audit issues. In the event that the Director requests a copy of confidential information, the Grantee may redact the customer name, service and billing addresses (other than zip code) and telephone number from any copy of confidential information provided to the Director, provided, however, that the Grantee shall retain the unredacted original of the confidential information until notified by the Director of the close of the audit and shall provide the City with an unredacted copy of confidential information upon request of the Director in the event of an audit dispute. If the Grantee fails or is unable to provide an unredacted copy of confidential information to the Director during an audit dispute, any issue with regard to the unavailable information shall be resolved in favor of the City.

b. The Director shall not disclose any confidential information reproduced for documentation of audit issues unless the City has received a request to review or copy confidential information under the Texas Public Information Act or related law. Upon receipt of such request, the City shall notify the Grantee that a request to review or copy confidential information has been submitted to the City.

### **ARTICLE V. RELEASE, INDEMNIFICATION AND INSURANCE**

**SECTION 5.01 THE GRANTEE HEREBY RELEASES AND DISCHARGES THE CITY FROM AND FURTHER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICERS, DIRECTORS, OFFICIALS, LEGAL REPRESENTATIVES, EMPLOYEES, AND ASSIGNS (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") FROM ANY AND ALL FINES, DEMANDS, DAMAGES, INJURIES OR CLAIMS AND CAUSES OF ACTION ARISING BY REASON OF OR IN CONNECTION WITH:**

- (a) THE ACTUAL OR ALLEGED ERRORS, INTENTIONAL ACTS, OMISSIONS OR NEGLIGENT ACTS OF THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE TO PERFORM UNDER THIS FRANCHISE) RELATING TO THIS FRANCHISE; OR
- (b) ANY ACTION OR FAILURE TO ACT BY THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY THE GRANTEE TO PERFORM UNDER THIS FRANCHISE IN CONNECTION WITH THE SYSTEM OR THIS FRANCHISE; OR
- (c) ANY ACTUAL OR ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CITY (INCLUDING WITHOUT LIMITATION, THE CITY'S CONCURRENT OR SOLE NEGLIGENCE) IN ANY WAY RELATING TO THE ISSUANCE OR ADMINISTRATION OF THIS FRANCHISE, INCLUDING WITHOUT LIMITATION, THE CITY'S RECEIPT OF INSURANCE POLICIES, ANY CITY APPROVALS OF ASSIGNMENTS AND ANY OTHER SIMILAR ACT OF THE CITY IN CONNECTION WITH FULFILLING ITS DUTIES OR ENABLING THE GRANTEE TO BENEFIT FROM THE RIGHTS ALLOWED UNDER THIS FRANCHISE.

THIS INDEMNITY CLAUSE SHALL APPLY TO THE GRANTEE WHETHER THE GRANTEE IS IMMUNE FROM LIABILITY OR NOT. AS TO ANY MATTERS ARISING UNDER THIS INDEMNITY PROVISION FOR WHICH THE GRANTEE HAS AGREED TO INDEMNIFY THE CITY. THE CITY RESERVES THE EXCLUSIVE RIGHT, BUT NOT THE DUTY, TO SELECT COUNSEL OF ITS CHOICE TO REPRESENT ITS INTERESTS AND THE GRANTEE SHALL INDEMNIFY THE CITY FOR THE REASONABLE AND NECESSARY ATTORNEY FEES OF SUCH COUNSEL.

GRANTEE'S LIABILITY UNDER THIS INDEMNITY CLAUSE IS SEPARATE FROM ITS DUTIES UNDER THE INSURANCE PROVISIONS OF THIS FRANCHISE AND

**SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE,  
EXCLUSIVE OF COSTS OF DEFENDING THE CITY.**

(d) The following procedures shall apply to indemnification under this ordinance:

(1) Notice of Claims. If the City or the Grantee receives notice of any claim or circumstances that could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- a. A description of the indemnification event in reasonable detail;
- b. The basis on which indemnification may be due; and
- c. The anticipated amount of indemnified loss;

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that the Grantee is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims. The Grantee may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. The Grantee shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, the Grantee must advise the City as to whether or not it will defend the claim. If the Grantee does not assume the defense, the City shall assume and control the defense, and all defense expenses shall constitute an indemnification loss.

(3) Continued Participation. If the Grantee elects to defend the claim, the City may retain separate counsel at its own expense to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. The Grantee may settle the claim without the consent or agreement of the City unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that the Grantee does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

**Section 5.02. Insurance.**

a. Before the Effective Date of this Franchise, Grantee shall file with the City an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that the Grantee he has qualified as a self-insurer, as the term is defined in the Texas Motor Vehicle Safety Responsibility Act (or any successor) as now in force or hereafter amended.

b. The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of insurance coverage shall be maintained at all times and shall be accepted only in the authorized form that has been promulgated by the City and adopted by the Texas Automobile Insurance Plan Association.

c. The Grantee shall continuously and without interruption, maintain in force the required insurance coverage and limits set forth above as a material term of this Franchise. Failure to do so will be a default under this Franchise, allowing the City, at its option, to terminate this Franchise in accordance with the provisions of **Article VI**.

## **ARTICLE VI. DEFAULT AND TERMINATION**

**Section 6.01. Defaults.** The occurrence of any of the following shall be an event of default under this Franchise:

- a. failure of the Grantee to comply with any material term, condition or provision (including but not limited to timely payment of all sums due hereunder) of this Franchise;
- b. any false statement or misrepresentation as to a material fact in the Grantee's application for this Franchise;
- c. the Grantee's loss of or failure to obtain all licenses, permits, and certification lawfully required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the Grantee's operations under this Franchise and pay all fees associated therewith; or

**Section 6.02. Cure period.** If the Grantee defaults under section 6.01 of this Franchise for a period of 30 days after the Grantee has been notified in writing by the City to cure the specific alleged violation or failure to comply, then the City may follow the procedures set forth herein to declare that all the Grantee's rights and privileges granted by this Franchise are terminated subject to City Council's ratifying ordinance; provided that if the Grantee is alleged to be in violation of any material provision of this Franchise other than the payment of any fee due hereunder and if the Grantee commences efforts to cure the alleged violation(s) within 30 days after receipt of written notice and thereafter prosecutes the curative efforts with reasonable diligence until the curative efforts are completed, then the alleged violation(s) shall not be deemed a default and the City will take no further action at that time.

**Section 6.03. A. Termination.** The City may terminate this Franchise for an uncured default after notice and opportunity to cure as provided in sections 6.01 and 6.02 herein.



Termination is final upon the effective date of City Council's adoption of a City ordinance ratifying the termination. The City's written notice of default and opportunity to cure under section 6.02 herein shall recite that the City Council may vote on an ordinance to terminate this Franchise upon the expiration of 30 days from the date of the notice and shall include the causes and reasons for termination. The Grantee shall be provided the opportunity to appear before the City Council prior to the City Council's consideration of an ordinance to terminate this Franchise. Notice of the time, date, and place when the Grantee may appear before the City Council shall comply with the Texas Open Meetings Law, Chapter 551 of the Texas Government Code. Upon any termination of this Franchise, all amounts owed by the Grantee to City shall immediately become due and payable and Grantee's obligation to pay such sums shall survive the termination of this Franchise.

**B. City's Option to Maintain Franchise in Force.** In the event of an uncured noticed default hereunder, the City, at its sole option and discretion and without waiving such uncured default, may determine to: (a) maintain this Franchise in full force and effect and file suit against Grantee; (b) or pursue such other remedies as may be available to the City at law or in equity.

#### **SECTION 6.04. LIQUIDATED DAMAGES**

**A. THE GRANTEE EXPRESSLY AGREES THAT THE ACTUAL DAMAGES THAT MIGHT BE SUSTAINED BY THE CITY BY REASON OF THE GRANTEE'S VIOLATION OF THIS COMMERCIAL SOLID WASTE HAULING FRANCHISE ARE UNCERTAIN AND WOULD BE DIFFICULT TO ASCERTAIN, AND THAT PAYMENT SPECIFIED HEREIN REPRESENTS REASONABLE LIQUIDATED DAMAGES TO THE CITY FOR THE VIOLATION. IN ADDITION TO ANY OTHER REMEDIES OTHERWISE AVAILABLE TO THE CITY FOR VIOLATIONS OF THIS FRANCHISE, THE CITY MAY CHARGE TO AND COLLECT FROM GRANTEE THE FOLLOWING LIQUIDATED DAMAGES:**

**1. FOR FAILURE TO PROVIDE DATA, DOCUMENTS, REPORTS OR INFORMATION OR TO COOPERATE WITH THE CITY DURING AN AUDIT PURSUANT TO SECTION 3.01 ABOVE, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**2. FOR FAILURE OF THE GRANTEE TO COMPLY WITH THE PAYMENT PROVISIONS OF THIS FRANCHISE, THE CITY'S DAMAGES SHALL BE \$200.00 PER DAY.**

**3. FOR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS FRANCHISE FOR WHICH A PENALTY IS NOT OTHERWISE SPECIFICALLY PROVIDED, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**B. THE DIRECTOR MAY IMPOSE LIQUIDATED DAMAGES HEREUNDER UPON THIRTY (30) DAYS WRITTEN NOTICE TO THE GRANTEE, IF**

**AT THE EXPIRATION OF THE THIRTIETH DAY THE GRANTEE HAS FAILED TO EITHER REMEDY THE VIOLATION OR MAKE ARRANGEMENTS TO DO SO WITH THE APPROVAL OF THE DIRECTOR.**

**C. ANY PAYMENTS TO THE CITY UNDER THIS SECTION SHALL NOT BE CONSIDERED FRANCHISE FEES NOR SHALL THE PAYMENTS BE OFFSET AGAINST THE PAYMENTS REQUIRED PURSUANT TO SECTION 3.01. ABOVE.**

## **ARTICLE VII. TRANSFER OF AUTHORITY**

**Section 7.01. Prohibition.** The rights, privileges, and franchise granted hereunder may not be assigned, in whole or in part, without the prior consent of the City expressed by resolution or ordinance, and then only under the conditions that may therein be prescribed, except as otherwise provided in **Section 7.04**. No assignment in law or otherwise shall be effective until the assignee has filed with the Director an instrument, duly executed, reciting the fact of the assignment, accepting the terms hereof, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of this Franchise for the purposes of this Article.

**Section 7.02. Process.** Upon receipt of a request for consent to an assignment, the Director shall diligently investigate the request in a timely manner and place the request on the City Council agenda at the earliest practicable time. The City Council shall proceed to act on the request within a reasonable period of time. An assignment of this Franchise, other than under section 7.04 of this Franchise, is effective as to this Franchise on the effective date of the Ordinance by which City Council grants its consent to the assignment.

**Section 7.03. Scope of review.** In reviewing a request for assignment, the City may inquire into the legal, technical and financial qualifications of the prospective assignee, and the Grantee shall assist the City in so inquiring. The City may condition any assignment upon the terms and conditions it deems reasonably necessary, provided its approval and any terms and conditions so imposed shall be related to the legal, technical, and financial qualifications of the prospective assignee as well as the Grantee's compliance with the terms hereof.

**Section 7.04. Assignments not requiring approval.** Notwithstanding anything to the contrary contained in this Article, the prior approval of the City shall not be required for any assignment to any entity controlling, controlled by, or under common control with the Grantee, as long as the entity has expertise in the operation of a business for the collection, hauling, and transporting of solid waste and/or industrial waste. The Grantee shall give to the Director written notice of the effective date of any assignment made pursuant to this Section accompanied by documentation demonstrating the assignee's financial resources.

**Section 7.05. Release.** Upon receiving the City's consent to an assignment, or, in the event of an assignment qualifying under **Section 7.04**, upon giving notice under **Section 7.04**,

the Grantee shall be relieved of all conditions, obligations, and liabilities arising under this Franchise from and after the effective date of the assignment. Provided however, Grantee shall never be relieved of its obligation to pay any past due sums owing or to perform any unperformed obligations arising under this Franchise prior to the effective date of the assignment.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.01. Notice.**

**a.** All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received (if by personal delivery) or, on the third business day (Monday-Friday) following deposit in a United States Postal Service post office or receptacle with proper postage affixed and sent by certified mail, return receipt requested, addressed to the respective other party at the address prescribed below or at another address that the receiving party may have theretofore designated by notice to the sending party.

Notice to the City or Director shall be addressed as follows:

|                               |               |                                  |
|-------------------------------|---------------|----------------------------------|
| Director                      | <i>and to</i> | City Attorney                    |
| Administration and Regulatory |               | City of Houston Legal Department |
| Affairs Department            |               | P.O. Box 368                     |
| City of Houston               |               | Houston, Texas 77001-0368        |
| 611 Walker, 13th Floor        |               | City Hall Annex Fourth Floor     |
| Houston, Texas 77002          |               | 900 Bagby, Houston, Texas 77002  |
| Fax Number: 713-837-0631      |               | Fax Number: 832.393.6259         |

Notice to the Grantee shall be addressed as followed:

Barry Esene, Executive Vice President  
Environmental Industrial Services Group, Inc.  
5353 W. Alabama St., Ste. 340  
Houston, Texas 77056  
Facsimile Number: 713-622-3245

**b.** If a facsimile number is specified above, notice may also be given by facsimile transmission if receipt is proven by a facsimile confirmation statement. Facsimile notice shall be deemed received (if documented by confirmation) on the date received if receipt is before 5:00 p.m. on a business day (Monday-Friday). If the time of receipt is after 5:00 p.m., the notice shall be deemed received on the next calendar business day.

**Section 8.02. Force Majeure.** Other than the Grantee's failure to pay amounts due and payable under this Franchise, the Grantee shall not be in default or be subject to sanction under

any provision of this Franchise when its performance is prevented by Force Majeure. Force Majeure means an event caused by strike or other labor problem; embargo; epidemic; act of God; fire; flood; adverse weather conditions, or other major environmental disturbance; act of military authority; war or civil disorder. Provided, however, that such causes are beyond the reasonable control and without the willful act, fault, failure or negligence of the Grantee. Performance is not excused under this section following the end of the applicable event of Force Majeure.

**Section 8.03. Controlling laws.** This Franchise and the authority granted herein are subject to the applicable provisions of the Constitution and laws of the United States and of the State of Texas, the Charter of the City, Article VI and the provisions of general applicability of the Code of Ordinances, City of Houston. All obligations of the parties hereunder are performable in Harris County, Texas. In the event that any legal proceeding is brought to enforce the terms of this Franchise, it shall be brought in the Texas State District Courts of Harris County, Texas.

**Section 8.04. Cumulative effect.** This Franchise shall be cumulative of all provisions of the Code of Ordinances, City of Houston, as amended, except in those instances where the provisions of this Franchise are in direct conflict with the provisions of the Code of Ordinances, in which instances the provisions of this Franchise shall supersede the conflicting provisions of the Code as they apply to the City.

**Section 8.05. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Franchise are severable, and, if any phrase, clause, sentence, paragraph or section of this Franchise shall be declared void, ineffective or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, the voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Franchise because the same would have been enacted by the City Council without the incorporation herein of any void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**Section 8.06. Entire agreement.** This Franchise merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms, whether written or verbal, antecedent or contemporaneous with the execution hereof.

**Section 8.07. Captions.** Captions contained in this Franchise are for reference purposes only, and therefore will be given no effect in construing this Franchise and are not restrictive of the subject matter of any section of this Franchise. Any reference to gender shall include the masculine, feminine and neutral.

**Section 8.08. Acceptance and approval; consent.** An approval by the Director, or any other instrumentality of the City, of any part of the Grantee's performance shall not be construed to waive compliance with this Franchise or to establish a standard of performance other than required by this Franchise or by law. Where this Franchise contains a provision that either party



approve or consent to any action of the other party, the approval or consent shall not be unreasonably withheld or delayed.

**Section 8.09. Non-waiver.** Failure of either party hereto to insist on the strict performance of any of the terms and conditions hereof or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy accruing as a result of any future default or failure of performance. Waiver of the City's rights hereunder may only be effected by a written instrument signed by the Director or Grantee, and approved by City Council.

**Section 8.10. Written amendment.** This Franchise may be amended only by an ordinance duly adopted by the City Council.

**Section 8.11. Publication.** The City Secretary is hereby directed to publish notice of this Franchise in compliance with Article II, Section 18 of the Charter of the City of Houston, Texas. The Grantee shall pay all costs of publication of notice of this Franchise.

**Section 8.12. Acceptance.** No Franchise shall be read and voted on by City Council unless the Grantee has previously accepted and agreed in writing to the Franchise.

**Section 8.13. Representations and warranties.** In addition to the representations, warranties, and covenants of the Grantee to the City set forth elsewhere herein, the Grantee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Franchise:

**a. Organization, standing and power.** The Grantee is a Texas Corporation, duly organized, validly existing and in good standing under the laws of the State of Texas and is duly authorized to do business in the State of Texas and in the City. The Grantee has all requisite power and authority to own or lease its properties and assets, to conduct its businesses as currently conducted and to execute, deliver and perform this Franchise and all other agreements entered into or delivered in connection with or as contemplated hereby.

**b. Compliance with law.** The Grantee is, to the best of its knowledge and belief, in compliance with all laws, ordinances, decrees and governmental rules and regulations applicable to the business of collecting, hauling and transporting solid waste or industrial waste and has obtained all government licenses, permits, and authorizations necessary for the provision of these services.

**c. Full disclosure.** Without limiting the specific language of any other representation and warranty herein, all information furnished by the Grantee to the City in connection with this Franchise by authorized officers of the Grantee, is, to the best of the Grantee's knowledge and

belief, accurate and complete in all material respects on the date of passage of this Franchise, and includes all material facts required to be stated therein and does not contain any untrue statement of a material fact or omit any material fact necessary to make the statements therein not misleading. There is no fact known to the Grantee, to the best of its knowledge, which materially and adversely affects or in the future could reasonably be expected to materially and adversely affect the business, operations, properties, assets or financial condition of the Grantee which has not been set forth in this Franchise or the other documents, certificates, and instruments delivered to the City by or on behalf of the Grantee specifically for use in connection with the transactions contemplated by this Franchise.

**d. Truthful statements.** The Grantee warrants, to the best of its knowledge and belief, that information provided and statements made in its application for this Franchise were true and correct when made and are true and correct upon execution of acceptance hereof.

**e. Survival of representations and warranties.** All representations and warranties contained in this Franchise shall survive the term of this Franchise.

**Section 8.14. Effective Date.** This Franchise, having been published as required in Article II, Section 18 of the Charter of the City of Houston, shall become effective on the 31<sup>st</sup> day following its final passage by the City Council and approval by the Mayor.

**ACCEPTED AND AGREED TO ON BEHALF OF:**

Environmental Industrial Services Group Inc  
(Name of Grantee)

Corporation / Texas  
(Legal Identity and State of Formation)

By: [Signature]  
(Signature of Officer or Authorized Person)

Title: Exec. Vice President  
(Capacity of Signer)

Dated this 15<sup>th</sup> day of September, 2014.

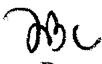
PASSED first reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED second reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED third reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

  
Prepared by Legal Dept.  
YSC/tas 9/23/14

  
Sr. Assistant City Attorney

Requested by: Tina Paez, Director, Administration and Regulatory Affairs Department  
L.D. File No. 0371400184001

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/26/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Anderson Pollution - 1st

Agenda Item#: 36.

**Summary:**

ORDINANCE granting to **ANDERSON POLLUTION CONTROL, INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

**FIRST READING**

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
2. Big R Trucking, LLC
3. Environmental Industrial Services Group, Inc.
4. Anderson Pollution Control, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**Amount of Funding:**

n/a

**Contact Information:**

Lara Cottingham Phone: (832) 393- 8503

Naelah Yahya Phone: (832) 393- 8530

**ATTACHMENTS:**

| Description  | Type               |
|--|--------------------|
| <input type="checkbox"/> 9.26.2014 SW ARA Franchise RCA      | Signed Cover sheet |
| <input type="checkbox"/> 9.26.2014 ARA SW Franchise Captions | Backup Material    |
| <input type="checkbox"/> Anderson Pollution Control - ORD    | Signed Cover sheet |



**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/26/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Naelah Yahya      **Phone:** (832) 393- 8530**Date and identification of prior authorizing Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)                      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. FCC Environmental Services, LLC
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**REQUIRED AUTHORIZATION****Finance Director:**

**1. FCC ENVIRONMENTAL SERVICES, LLC**

**AN ORDINANCE GRANTING TO FCC ENVIRONMENTAL SERVICES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**2. BIG R TRUCKING, LLC**

**AN ORDINANCE GRANTING TO BIG R TRUCKING, LLC, A TEXAS LIMITED LIABILITY COMPANY, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**3. ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC.**

**AN ORDINANCE GRANTING TO ENVIRONMENTAL INDUSTRIAL SERVICES GROUP, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**4. ANDERSON POLLUTION CONTROL, INC.**

**AN ORDINANCE GRANTING TO ANDERSON POLLUTION CONTROL, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

**CITY OF HOUSTON, TEXAS, ORDINANCE NO. 2014 - \_\_\_\_\_**

**AN ORDINANCE GRANTING TO ANDERSON POLLUTION CONTROL, INC., A TEXAS CORPORATION, THE RIGHT, PRIVILEGE, AND FRANCHISE TO COLLECT, HAUL, AND TRANSPORT SOLID WASTE AND INDUSTRIAL WASTE FROM COMMERCIAL PROPERTIES LOCATED WITHIN THE CITY OF HOUSTON, TEXAS, PURSUANT TO CHAPTER 39, CODE OF ORDINANCES, HOUSTON, TEXAS; PROVIDING FOR RELATED TERMS AND CONDITIONS; AND MAKING CERTAIN FINDINGS RELATED THERETO.**

\* \* \* \* \*

**WHEREAS**, Anderson Pollution Control, Inc., a Texas Corporation, is in the business of collecting, hauling, and transporting solid waste and industrial waste from commercial properties, and has applied pursuant to the requirements of Chapter 39, Code of Ordinances, Houston, Texas, for the City of Houston's (the "City") consent to use its public ways to provide the service within the City; and

**WHEREAS**, the City Council find that it is in the best interests of the City to grant such authority to Anderson Pollution Control, Inc., subject to the terms and conditions provided herein; **NOW, THEREFORE**;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**ARTICLE I.  
DEFINITIONS AND INTERPRETATIONS**

**Section 1.01. Short title.** This ordinance shall be known and may be cited as the Anderson Pollution Control, Inc., Commercial Solid Waste Hauling Franchise.

**Section 1.02. Definitions.** Except as may be specifically defined herein, all terms and phrases used herein shall have the meanings ascribed to them first as defined in Article VII, Chapter 39 of the City's Code of Ordinances (the "Code"), and if not defined therein, second, in Article I, Chapter 39 of the Code, and if not defined therein, third, in Section 1-2, Chapter 1 of the Code, as presently adopted or hereafter amended and all such definitions are hereby incorporated herein; in addition, the following terms, phrases, words, and their derivations shall have the meaning given herein unless more specifically defined within other sections of this franchise. When not inconsistent with the context, words used in the present tense include the future tense; words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

*Article VII* means Article VII of Chapter 39 of the City's Code of Ordinances.

*Authorized Area* means the incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this Franchise.

*Director* means the director of the City's Administration and Regulatory Affairs Department or his designee.

*Effective Date* is defined in **Section 8.14.**

*Franchise* means the *Commercial Solid Waste Hauling Franchise* ordinance described in Section 1.01 and includes the rights, obligations, and privileges granted to the Grantee hereof.

*Grantee* means Anderson Pollution Control, Inc., a Texas Corporation.

*Gross Revenue* means all revenues collected by the Grantee from the collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area.

Gross Revenue includes by way of illustration and not limitation all fees charged customers for any and all services provided by the Grantee related to its collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area, including all delivery charges, hauling charges, disposal charges, and daily rental charges.

Revenue of an affiliate derived from the Grantee's collection, hauling, or transport of solid waste or industrial waste from commercial properties located within the Authorized Area shall be Gross Revenue to the extent the treatment of such revenue as revenue of affiliate and not the Grantee has the effect of avoiding the payment of Franchise Fees which would otherwise be paid to the City. In no event shall revenue of an affiliate be Gross Revenue to the Grantee if such revenue is otherwise subject to Franchise Fees to be paid to the City. Gross Revenue does not include revenue that is not actually received, even if billed (e.g., bad debt).

Gross Revenues shall not include the franchise fees collected pursuant to this Franchise or any taxes or fees which are imposed on any customer by any governmental unit and collected by the Grantee for such governmental unit.

## **ARTICLE II. GRANT OF AUTHORITY AND TERM**

**Section 2.01. Rights granted.** The applicable terms of **Article VII**, as presently adopted or hereafter amended, are hereby incorporated in this Franchise. There is hereby granted to the Grantee, subject to the reasonable and timely compliance by the Grantee with the provisions contained herein, the non-exclusive right and franchise to use the public way specifically for the purpose of collecting, hauling, and transporting commercial solid waste and industrial waste from commercial properties located within the Authorized Area.

**Section 2.02. Term.** The rights granted hereunder shall be for a 10-year term beginning on the Effective Date.

**Section 2.03. Specific limitations.** This Franchise does not grant the Grantee the right to provide, directly or indirectly, any services not specifically authorized by the terms of this Franchise. This Franchise does not grant the Grantee any right to use the public way for the purpose of placing, locating, or maintaining containers for the collection of solid waste or industrial waste.

**Section 2.04. Use of the public way by other persons.**

a. Nothing in this Franchise shall ever be held or construed to confer upon the Grantee exclusive rights or privileges of any nature whatsoever. The City may permit other persons to, and the Grantee acknowledges that the City or other persons may, make use of its public ways for the purpose of collecting, hauling, and transporting solid waste or industrial waste from commercial properties located within the Authorized Area.

b. The authorization of use of the public ways by other parties as provided in the above shall not create any additional liability to the City as a result thereof.

**Section 2.05. Additions to the authorized area by annexation or otherwise.** The Authorized Area shall include the territory currently included within the boundaries of the City, plus any territory annexed by the City during the term of this Franchise. To the extent allowed by law, following an annexation, the Grantee is required to comply with all of the terms of this Franchise with regard to its operations in the annexed area, including without limitation: (i) applying for a franchise within 45 days after the effective date of the annexation; (ii) pursuing the franchise with diligence; and (iii) making payments related to the annexed area pursuant to **Article III** below as of the earlier of the first day of the month following 45 days after the date of the notice of the City's intent to annex, but not earlier than the effective date of the annexation.

**ARTICLE III.  
PAYMENTS TO CITY**

**Section 3.01. Amount and Time of Payment.**

a. As compensation for the right, privilege, and franchise herein conferred, the Grantee shall pay to the City each year during the term of this Franchise a **Franchise Fee** equal to four percent (4%) of the Grantee's Gross Revenues for such year, or portion thereof. The Franchise Fee is payable to the City each calendar quarter in quarterly payments. The Grantee shall deliver payments to the Director by 12:01 p.m. on or before the 45<sup>th</sup> day following the close of the calendar quarter for which the quarterly payment is calculated. The initial quarterly payment shall cover the period beginning as of the Effective Date. Any necessary prorations shall be made. At the time such payments are delivered, the Grantee shall file with the Director a



sworn financial report itemizing the components of the Grantee's Gross Revenues during the payment period. This report shall incorporate a statement reflecting the market value of all "trade" revenue (revenues from exchanges or barter which do not involve monetary compensation). The Franchise Fee payable hereunder shall be exclusive of, and in addition to, all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of the Grantee to the City.

b. The Director shall, upon 15 days' advance notice, have the right to inspect those records of the Grantee the Director deems necessary to determine the Grantee's compliance with any term or condition of this Franchise. In the event the Director determines that the Grantee has not complied with any term or condition of this Franchise, the Director shall have the right to use those records in any manner necessary to resolve the Grantee's noncompliance. Without limitation, the Grantee shall keep comprehensive records relating to the computation of sums due to the City.

c. The Grantee shall pay a late penalty of twelve (12) percent per annum, compounded daily, on Franchise Fee payments, or portions thereof, that are paid subsequent to the payment dates specified in **Subsection a** above. If the City identifies, as a result of an audit under this section, amounts owed by the Grantee from prior periods, the Grantee shall pay, in addition to the amount owed, a late penalty of ten (10) percent per annum on the amount identified.

d. Acceptance of Payment. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Franchise or for the performance of any other obligation hereunder.

#### **ARTICLE IV. RECORDS**

**Section 4.01. Record keeping.** In addition to other records or filings required hereunder or by law, the Grantee shall:

a. Maintain records of its solid waste or industrial waste collection, hauling, and transportation business. Such records shall include but are not limited to a complete listing of all accounts within the Authorized Area, identified by customer name, time periods served, rates charged, service address, telephone number, and account number.

b. File copies, upon the Director's request, of any reports made to federal and state authorities pertaining to the regulation of any solid waste or industrial waste collection, hauling, or transporting activity of the Grantee in the public way.

c. Retain all records necessary for the City to review compliance with this Franchise until the final resolution of a franchise audit and any resulting collection action commenced within two (2) years of the termination date specified in Section 2.02 of this Franchise. The

Grantee shall, at the Grantee's expense, make the records available to the Director for inspection or copying within the City during regular business hours upon ten business day's written notice.

d. Maintain records, accounts, and financial and operating reports in a manner that will allow the City to determine the Grantee's compliance with the terms of this Franchise.

The Director may require the keeping of additional records or accounts reasonably necessary to determine the Grantee's compliance with the terms of this Franchise.

#### **Section 4.02. Confidential information.**

a. The Director shall have the right to inspect Grantee's records, accounts and financial and operating information, including, but not limited to, customer lists, contracts and any other information clearly designated by the Grantee to be confidential or proprietary ("confidential information") to determine the Grantee's compliance with this commercial solid waste franchise. The Director will not reproduce any confidential information not specifically required for documentation of audit issues. In the event that the Director requests a copy of confidential information, the Grantee may redact the customer name, service and billing addresses (other than zip code) and telephone number from any copy of confidential information provided to the Director, provided, however, that the Grantee shall retain the unredacted original of the confidential information until notified by the Director of the close of the audit and shall provide the City with an unredacted copy of confidential information upon request of the Director in the event of an audit dispute. If the Grantee fails or is unable to provide an unredacted copy of confidential information to the Director during an audit dispute, any issue with regard to the unavailable information shall be resolved in favor of the City.

b. The Director shall not disclose any confidential information reproduced for documentation of audit issues unless the City has received a request to review or copy confidential information under the Texas Public Information Act or related law. Upon receipt of such request, the City shall notify the Grantee that a request to review or copy confidential information has been submitted to the City.

### **ARTICLE V. RELEASE, INDEMNIFICATION AND INSURANCE**

**SECTION 5.01 THE GRANTEE HEREBY RELEASES AND DISCHARGES THE CITY FROM AND FURTHER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICERS, DIRECTORS, OFFICIALS, LEGAL REPRESENTATIVES, EMPLOYEES, AND ASSIGNS (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") FROM ANY AND ALL FINES, DEMANDS, DAMAGES, INJURIES OR CLAIMS AND CAUSES OF ACTION ARISING BY REASON OF OR IN CONNECTION WITH:**

- (a) THE ACTUAL OR ALLEGED ERRORS, INTENTIONAL ACTS, OMISSIONS OR NEGLIGENT ACTS OF THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE TO PERFORM UNDER THIS FRANCHISE) RELATING TO THIS FRANCHISE; OR
- (b) ANY ACTION OR FAILURE TO ACT BY THE GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY THE GRANTEE TO PERFORM UNDER THIS FRANCHISE IN CONNECTION WITH THE SYSTEM OR THIS FRANCHISE; OR
- (c) ANY ACTUAL OR ALLEGED NEGLIGENT ACTS OR OMISSIONS OF THE CITY (INCLUDING WITHOUT LIMITATION, THE CITY'S CONCURRENT OR SOLE NEGLIGENCE) IN ANY WAY RELATING TO THE ISSUANCE OR ADMINISTRATION OF THIS FRANCHISE, INCLUDING WITHOUT LIMITATION, THE CITY'S RECEIPT OF INSURANCE POLICIES, ANY CITY APPROVALS OF ASSIGNMENTS AND ANY OTHER SIMILAR ACT OF THE CITY IN CONNECTION WITH FULFILLING ITS DUTIES OR ENABLING THE GRANTEE TO BENEFIT FROM THE RIGHTS ALLOWED UNDER THIS FRANCHISE.

THIS INDEMNITY CLAUSE SHALL APPLY TO THE GRANTEE WHETHER THE GRANTEE IS IMMUNE FROM LIABILITY OR NOT. AS TO ANY MATTERS ARISING UNDER THIS INDEMNITY PROVISION FOR WHICH THE GRANTEE HAS AGREED TO INDEMNIFY THE CITY. THE CITY RESERVES THE EXCLUSIVE RIGHT, BUT NOT THE DUTY, TO SELECT COUNSEL OF ITS CHOICE TO REPRESENT ITS INTERESTS AND THE GRANTEE SHALL INDEMNIFY THE CITY FOR THE REASONABLE AND NECESSARY ATTORNEY FEES OF SUCH COUNSEL.

GRANTEE'S LIABILITY UNDER THIS INDEMNITY CLAUSE IS SEPARATE FROM ITS DUTIES UNDER THE INSURANCE PROVISIONS OF THIS FRANCHISE AND



**SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE,  
EXCLUSIVE OF COSTS OF DEFENDING THE CITY.**

(d) The following procedures shall apply to indemnification under this ordinance:

(1) Notice of Claims. If the City or the Grantee receives notice of any claim or circumstances that could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- a. A description of the indemnification event in reasonable detail;
- b. The basis on which indemnification may be due; and
- c. The anticipated amount of indemnified loss;

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that the Grantee is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims. The Grantee may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. The Grantee shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, the Grantee must advise the City as to whether or not it will defend the claim. If the Grantee does not assume the defense, the City shall assume and control the defense, and all defense expenses shall constitute an indemnification loss.

(3) Continued Participation. If the Grantee elects to defend the claim, the City may retain separate counsel at its own expense to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. The Grantee may settle the claim without the consent or agreement of the City unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that the Grantee does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

**Section 5.02. Insurance.**

a. Before the Effective Date of this Franchise, Grantee shall file with the City an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that the Grantee he has qualified as a self-insurer, as the term is defined in the Texas Motor Vehicle Safety Responsibility Act (or any successor) as now in force or hereafter amended.

b. The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of insurance coverage shall be maintained at all times and shall be accepted only in the authorized form that has been promulgated by the City and adopted by the Texas Automobile Insurance Plan Association.

c. The Grantee shall continuously and without interruption, maintain in force the required insurance coverage and limits set forth above as a material term of this Franchise. Failure to do so will be a default under this Franchise, allowing the City, at its option, to terminate this Franchise in accordance with the provisions of **Article VI**.

## **ARTICLE VI. DEFAULT AND TERMINATION**

**Section 6.01. Defaults.** The occurrence of any of the following shall be an event of default under this Franchise:

- a. failure of the Grantee to comply with any material term, condition or provision (including but not limited to timely payment of all sums due hereunder) of this Franchise;
- b. any false statement or misrepresentation as to a material fact in the Grantee's application for this Franchise;
- c. the Grantee's loss of or failure to obtain all licenses, permits, and certification lawfully required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the Grantee's operations under this Franchise and pay all fees associated therewith; or

**Section 6.02. Cure period.** If the Grantee defaults under section 6.01 of this Franchise for a period of 30 days after the Grantee has been notified in writing by the City to cure the specific alleged violation or failure to comply, then the City may follow the procedures set forth herein to declare that all the Grantee's rights and privileges granted by this Franchise are terminated subject to City Council's ratifying ordinance; provided that if the Grantee is alleged to be in violation of any material provision of this Franchise other than the payment of any fee due hereunder and if the Grantee commences efforts to cure the alleged violation(s) within 30 days after receipt of written notice and thereafter prosecutes the curative efforts with reasonable diligence until the curative efforts are completed, then the alleged violation(s) shall not be deemed a default and the City will take no further action at that time.

**Section 6.03. A. Termination.** The City may terminate this Franchise for an uncured default after notice and opportunity to cure as provided in sections 6.01 and 6.02 herein.

Termination is final upon the effective date of City Council's adoption of a City ordinance ratifying the termination. The City's written notice of default and opportunity to cure under section 6.02 herein shall recite that the City Council may vote on an ordinance to terminate this Franchise upon the expiration of 30 days from the date of the notice and shall include the causes and reasons for termination. The Grantee shall be provided the opportunity to appear before the City Council prior to the City Council's consideration of an ordinance to terminate this Franchise. Notice of the time, date, and place when the Grantee may appear before the City Council shall comply with the Texas Open Meetings Law, Chapter 551 of the Texas Government Code. Upon any termination of this Franchise, all amounts owed by the Grantee to City shall immediately become due and payable and Grantee's obligation to pay such sums shall survive the termination of this Franchise.

**B. City's Option to Maintain Franchise in Force.** In the event of an uncured noticed default hereunder, the City, at its sole option and discretion and without waiving such uncured default, may determine to: (a) maintain this Franchise in full force and effect and file suit against Grantee; (b) or pursue such other remedies as may be available to the City at law or in equity.

#### **SECTION 6.04. LIQUIDATED DAMAGES**

**A. THE GRANTEE EXPRESSLY AGREES THAT THE ACTUAL DAMAGES THAT MIGHT BE SUSTAINED BY THE CITY BY REASON OF THE GRANTEE'S VIOLATION OF THIS COMMERCIAL SOLID WASTE HAULING FRANCHISE ARE UNCERTAIN AND WOULD BE DIFFICULT TO ASCERTAIN, AND THAT PAYMENT SPECIFIED HEREIN REPRESENTS REASONABLE LIQUIDATED DAMAGES TO THE CITY FOR THE VIOLATION. IN ADDITION TO ANY OTHER REMEDIES OTHERWISE AVAILABLE TO THE CITY FOR VIOLATIONS OF THIS FRANCHISE, THE CITY MAY CHARGE TO AND COLLECT FROM GRANTEE THE FOLLOWING LIQUIDATED DAMAGES:**

**1. FOR FAILURE TO PROVIDE DATA, DOCUMENTS, REPORTS OR INFORMATION OR TO COOPERATE WITH THE CITY DURING AN AUDIT PURSUANT TO SECTION 3.01 ABOVE, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**2. FOR FAILURE OF THE GRANTEE TO COMPLY WITH THE PAYMENT PROVISIONS OF THIS FRANCHISE, THE CITY'S DAMAGES SHALL BE \$200.00 PER DAY.**

**3. FOR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS FRANCHISE FOR WHICH A PENALTY IS NOT OTHERWISE SPECIFICALLY PROVIDED, THE CITY'S DAMAGES SHALL BE \$100.00 PER DAY.**

**B. THE DIRECTOR MAY IMPOSE LIQUIDATED DAMAGES HEREUNDER UPON THIRTY (30) DAYS WRITTEN NOTICE TO THE GRANTEE, IF**

**AT THE EXPIRATION OF THE THIRTIETH DAY THE GRANTEE HAS FAILED TO EITHER REMEDY THE VIOLATION OR MAKE ARRANGEMENTS TO DO SO WITH THE APPROVAL OF THE DIRECTOR.**

**C. ANY PAYMENTS TO THE CITY UNDER THIS SECTION SHALL NOT BE CONSIDERED FRANCHISE FEES NOR SHALL THE PAYMENTS BE OFFSET AGAINST THE PAYMENTS REQUIRED PURSUANT TO SECTION 3.01. ABOVE.**

## **ARTICLE VII. TRANSFER OF AUTHORITY**

**Section 7.01. Prohibition.** The rights, privileges, and franchise granted hereunder may not be assigned, in whole or in part, without the prior consent of the City expressed by resolution or ordinance, and then only under the conditions that may therein be prescribed, except as otherwise provided in **Section 7.04**. No assignment in law or otherwise shall be effective until the assignee has filed with the Director an instrument, duly executed, reciting the fact of the assignment, accepting the terms hereof, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of this Franchise for the purposes of this Article.

**Section 7.02. Process.** Upon receipt of a request for consent to an assignment, the Director shall diligently investigate the request in a timely manner and place the request on the City Council agenda at the earliest practicable time. The City Council shall proceed to act on the request within a reasonable period of time. An assignment of this Franchise, other than under section 7.04 of this Franchise, is effective as to this Franchise on the effective date of the Ordinance by which City Council grants its consent to the assignment.

**Section 7.03. Scope of review.** In reviewing a request for assignment, the City may inquire into the legal, technical and financial qualifications of the prospective assignee, and the Grantee shall assist the City in so inquiring. The City may condition any assignment upon the terms and conditions it deems reasonably necessary, provided its approval and any terms and conditions so imposed shall be related to the legal, technical, and financial qualifications of the prospective assignee as well as the Grantee's compliance with the terms hereof.

**Section 7.04. Assignments not requiring approval.** Notwithstanding anything to the contrary contained in this Article, the prior approval of the City shall not be required for any assignment to any entity controlling, controlled by, or under common control with the Grantee, as long as the entity has expertise in the operation of a business for the collection, hauling, and transporting of solid waste and/or industrial waste. The Grantee shall give to the Director written notice of the effective date of any assignment made pursuant to this Section accompanied by documentation demonstrating the assignee's financial resources.

**Section 7.05. Release.** Upon receiving the City's consent to an assignment, or, in the event of an assignment qualifying under **Section 7.04**, upon giving notice under **Section 7.04**,

the Grantee shall be relieved of all conditions, obligations, and liabilities arising under this Franchise from and after the effective date of the assignment. Provided however, Grantee shall never be relieved of its obligation to pay any past due sums owing or to perform any unperformed obligations arising under this Franchise prior to the effective date of the assignment.

## **ARTICLE VIII. MISCELLANEOUS**

### **Section 8.01. Notice.**

**a.** All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received (if by personal delivery) or, on the third business day (Monday–Friday) following deposit in a United States Postal Service post office or receptacle with proper postage affixed and sent by certified mail, return receipt requested, addressed to the respective other party at the address prescribed below or at another address that the receiving party may have theretofore designated by notice to the sending party.

Notice to the City or Director shall be addressed as follows:

Director  
Administration and Regulatory  
Affairs Department  
City of Houston  
611 Walker, 13th Floor  
Houston, Texas 77002  
Fax Number: 713-837-0631

*and to*

City Attorney  
City of Houston Legal Department  
P.O. Box 368  
Houston, Texas 77001-0368  
City Hall Annex Fourth Floor  
900 Bagby, Houston, Texas 77002  
Fax Number: 832.393.6259

Notice to the Grantee shall be addressed as followed:

Davian Ploger, Director  
Anderson Pollution Control, Inc.  
1011 W. Lewis  
Conroe, TX 77301  
Facsimile Number: 713-947-3802

**b.** If a facsimile number is specified above, notice may also be given by facsimile transmission if receipt is proven by a facsimile confirmation statement. Facsimile notice shall be deemed received (if documented by confirmation) on the date received if receipt is before 5:00 p.m. on a business day (Monday-Friday). If the time of receipt is after 5:00 p.m., the notice shall be deemed received on the next calendar business day.

**Section 8.02. Force Majeure.** Other than the Grantee's failure to pay amounts due and payable under this Franchise, the Grantee shall not be in default or be subject to sanction under

any provision of this Franchise when its performance is prevented by Force Majeure. Force Majeure means an event caused by strike or other labor problem; embargo; epidemic; act of God; fire; flood; adverse weather conditions, or other major environmental disturbance; act of military authority; war or civil disorder. Provided, however, that such causes are beyond the reasonable control and without the willful act, fault, failure or negligence of the Grantee. Performance is not excused under this section following the end of the applicable event of Force Majeure.

**Section 8.03. Controlling laws.** This Franchise and the authority granted herein are subject to the applicable provisions of the Constitution and laws of the United States and of the State of Texas, the Charter of the City, Article VI and the provisions of general applicability of the Code of Ordinances, City of Houston. All obligations of the parties hereunder are performable in Harris County, Texas. In the event that any legal proceeding is brought to enforce the terms of this Franchise, it shall be brought in the Texas State District Courts of Harris County, Texas.

**Section 8.04. Cumulative effect.** This Franchise shall be cumulative of all provisions of the Code of Ordinances, City of Houston, as amended, except in those instances where the provisions of this Franchise are in direct conflict with the provisions of the Code of Ordinances, in which instances the provisions of this Franchise shall supersede the conflicting provisions of the Code as they apply to the City.

**Section 8.05. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Franchise are severable, and, if any phrase, clause, sentence, paragraph or section of this Franchise shall be declared void, ineffective or unconstitutional by the valid judgment or final decree of a court of competent jurisdiction, the voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Franchise because the same would have been enacted by the City Council without the incorporation herein of any void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**Section 8.06. Entire agreement.** This Franchise merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms, whether written or verbal, antecedent or contemporaneous with the execution hereof.

**Section 8.07. Captions.** Captions contained in this Franchise are for reference purposes only, and therefore will be given no effect in construing this Franchise and are not restrictive of the subject matter of any section of this Franchise. Any reference to gender shall include the masculine, feminine and neutral.

**Section 8.08. Acceptance and approval; consent.** An approval by the Director, or any other instrumentality of the City, of any part of the Grantee's performance shall not be construed to waive compliance with this Franchise or to establish a standard of performance other than required by this Franchise or by law. Where this Franchise contains a provision that either party

approve or consent to any action of the other party, the approval or consent shall not be unreasonably withheld or delayed.

**Section 8.09. Non-waiver.** Failure of either party hereto to insist on the strict performance of any of the terms and conditions hereof or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy accruing as a result of any future default or failure of performance. Waiver of the City's rights hereunder may only be effected by a written instrument signed by the Director or Grantee, and approved by City Council.

**Section 8.10. Written amendment.** This Franchise may be amended only by an ordinance duly adopted by the City Council.

**Section 8.11. Publication.** The City Secretary is hereby directed to publish notice of this Franchise in compliance with Article II, Section 18 of the Charter of the City of Houston, Texas. The Grantee shall pay all costs of publication of notice of this Franchise.

**Section 8.12. Acceptance.** No Franchise shall be read and voted on by City Council unless the Grantee has previously accepted and agreed in writing to the Franchise.

**Section 8.13. Representations and warranties.** In addition to the representations, warranties, and covenants of the Grantee to the City set forth elsewhere herein, the Grantee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Franchise:

**a. Organization, standing and power.** The Grantee is a Texas Corporation, duly organized, validly existing and in good standing under the laws of the State of Texas and is duly authorized to do business in the State of Texas and in the City. The Grantee has all requisite power and authority to own or lease its properties and assets, to conduct its businesses as currently conducted and to execute, deliver and perform this Franchise and all other agreements entered into or delivered in connection with or as contemplated hereby.

**b. Compliance with law.** The Grantee is, to the best of its knowledge and belief, in compliance with all laws, ordinances, decrees and governmental rules and regulations applicable to the business of collecting, hauling and transporting solid waste or industrial waste and has obtained all government licenses, permits, and authorizations necessary for the provision of these services.

**c. Full disclosure.** Without limiting the specific language of any other representation and warranty herein, all information furnished by the Grantee to the City in connection with this Franchise by authorized officers of the Grantee, is, to the best of the Grantee's knowledge and

belief, accurate and complete in all material respects on the date of passage of this Franchise, and includes all material facts required to be stated therein and does not contain any untrue statement of a material fact or omit any material fact necessary to make the statements therein not misleading. There is no fact known to the Grantee, to the best of its knowledge, which materially and adversely affects or in the future could reasonably be expected to materially and adversely affect the business, operations, properties, assets or financial condition of the Grantee which has not been set forth in this Franchise or the other documents, certificates, and instruments delivered to the City by or on behalf of the Grantee specifically for use in connection with the transactions contemplated by this Franchise.

**d. Truthful statements.** The Grantee warrants, to the best of its knowledge and belief, that information provided and statements made in its application for this Franchise were true and correct when made and are true and correct upon execution of acceptance hereof.

**e. Survival of representations and warranties.** All representations and warranties contained in this Franchise shall survive the term of this Franchise.

**Section 8.14. Effective Date.** This Franchise, having been published as required in Article II, Section 18 of the Charter of the City of Houston, shall become effective on the 31<sup>st</sup> day following its final passage by the City Council and approval by the Mayor.

**ACCEPTED AND AGREED TO ON BEHALF OF:**

ANDERSON POLLUTION CONTROL  
(Name of Grantee)

INC. TEXAS  
(Legal Identity and State of Formation)

By: Davan M. Blogg  
(Signature of Officer or Authorized Person)

Title: President/COO  
(Capacity of Signer)

Dated this 20<sup>th</sup> day of November, 2013.





PASSED first reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED second reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED third reading this \_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor of the City of Houston

  
Prepared by Legal Dept.   
YSC/nj 9/19/14 Sr. Assistant City Attorney  
Requested by: Tina Paez, Director, Administration and Regulatory Affairs Department  
L.D. File No. 0371400151001

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/19/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Ching Lo - 2nd

Agenda Item#: 37.

**Summary:**

ORDINANCE No. 2014-0886, passed first reading October 1, 2014

ORDINANCE granting to **CHING LO dba A. URANUS SERVICE, A Texas Sole Proprietorship**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

**SECOND READING**

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**Amount of Funding:**

n/a

**Source of Funding:**

Other (Specify)

n/a

**Contact Information:**

Lara Cottingham Phone: (832) 393-8503

Juan Olguin Phone: (832) 393- 8528

**ATTACHMENTS:**

| Description                                | Type                        |
|--|-----------------------------|
| ❑ 9.19.2014 ARA Solid Waste Franchise RCA  | Signed Cover sheet          |
| ❑ 9.17.2014 Solid Waste Franchise Captions | Backup Material             |
| ❑ Ching Lo DBA A. Uranus Service Ord.      | Ordinance/Resolution/Motion |

**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/19/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      Phone: (832) 393- 8503  
Juan Olguin      Phone: (832) 393- 8528**Date and identification of prior authorizing  
Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**REQUIRED AUTHORIZATION****Finance Director:**

## CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/19/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Progressive Waste - 2nd

Agenda Item#: 38.

### **Summary:**

ORDINANCE No. 2014-0887, passed first reading October 1, 2014

ORDINANCE granting to **PROGRESSIVE WASTE SOLUTIONS OF TX, INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

### **SECOND READING**

### **Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

### **Amount of Funding:**

n/a

### **Source of Funding:**

Other (Specify)

n/a

### **Contact Information:**

Lara Cottingham Phone: (832) 393-8503

Juan Olguin Phone: (832) 393- 8528

### **ATTACHMENTS:**

| Description                                    | Type                        |
|--|-----------------------------|
| ❑ 9.19.2014 ARA Solid Waste Franchise RCA      | Signed Cover sheet          |
| ❑ 9.17.2014 Solid Waste Franchise Captions     | Backup Material             |
| ❑ Progressive Waste Solutions of TX, Inc. Ord. | Ordinance/Resolution/Motion |



**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/19/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Juan Olguin      **Phone:** (832) 393- 8528**Date and identification of prior authorizing  
Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**REQUIRED AUTHORIZATION****Finance Director:**

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/19/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Arrow Services - 2nd

Agenda Item#: 39.

**Summary:**

ORDINANCE No. 2014-0888, passed first reading October 1, 2014

ORDINANCE granting to **ARROW SERVICES 123, INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

**SECOND READING**

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**Amount of Funding:**

n/a

**Source of Funding:**

Other (Specify)

n/a

**Contact Information:**

Lara Cottingham Phone: (832) 393-8503

Juan Olguin Phone: (832) 393- 8528

**ATTACHMENTS:**

| Description                                | Type                        |
|--|-----------------------------|
| ❑ 9.19.2014 ARA Solid Waste Franchise RCA  | Signed Cover sheet          |
| ❑ 9.17.2014 Solid Waste Franchise Captions | Backup Material             |
| ❑ Arrow Services 123, Inc. Ord.            | Ordinance/Resolution/Motion |



**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/19/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Juan Olguin      **Phone:** (832) 393- 8528**Date and identification of prior authorizing  
Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)                      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**REQUIRED AUTHORIZATION****Finance Director:**

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/19/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Miggins Interests - 2nd

Agenda Item#: 40.

**Summary:**

ORDINANCE No. 2014-0889, passed first reading October 1, 2014

ORDINANCE granting to **MIGGINS INTERESTS, LLC dba HYDRO TECH UTILITIES, A Texas Limited Liability Company**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

**SECOND READING**

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**Amount of Funding:**

n/a

**Source of Funding:**

Other (Specify)

n/a

**Contact Information:**

Lara Cottingham Phone: (832) 393-8503

Juan Olguin Phone: (832) 393- 8528

**ATTACHMENTS:**

| Description  | Type                        |
|--|-----------------------------|
| ❑ 9.19.2014 ARA Solid Waste Franchise RCA              | Signed Cover sheet          |
| ❑ 9.17.2014 Solid Waste Franchise Captions             | Backup Material             |
| ❑ Miggins Interests, LLC DBA Hydro Tech Utilities Ord. | Ordinance/Resolution/Motion |



**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/19/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Juan Olguin      **Phone:** (832) 393- 8528**Date and identification of prior authorizing  
Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)                      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**REQUIRED AUTHORIZATION****Finance Director:**

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/19/2014

ARA-Ordinances granting Commercial Solid Waste Operator Franchises - Mouser Container - 2nd

Agenda Item#: 41.

**Summary:**

ORDINANCE No. 2014-0890, passed first reading October 1, 2014

ORDINANCE granting to **MOUSER CONTAINER SERVICE, INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions

**SECOND READING**

**Background:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**Amount of Funding:**

n/a

**Source of Funding:**

Other (Specify)

n/a

**Contact Information:**

Lara Cottingham Phone: (832) 393-8503

Juan Olguin Phone: (832) 393- 8528

**ATTACHMENTS:**

| Description                                | Type                        |
|--|-----------------------------|
| ❑ 9.19.2014 ARA Solid Waste Franchise RCA  | Signed Cover sheet          |
| ❑ 9.17.2014 Solid Waste Franchise Captions | Backup Material             |
| ❑ Mouser Container Service, Inc.           | Ordinance/Resolution/Motion |



**REQUEST FOR COUNCIL ACTION****TO:** Mayor via City Secretary**RCA #****SUBJECT:**

Ordinances granting Commercial Solid Waste Operator Franchises

**Category #****Page 1 of 1****Agenda Item#****FROM: (Department or other point of origin):**Tina Paez, Director  
Administration & Regulatory Affairs**Origination Date**

9/19/2014

**Agenda Date****DIRECTOR'S SIGNATURE:****Council Districts affected:**

ALL

**For additional information contact:**Lara Cottingham      **Phone:** (832) 393- 8503  
Juan Olguin      **Phone:** (832) 393- 8528**Date and identification of prior authorizing  
Council Action:****RECOMMENDATION: (Summary)**

Approve ordinances granting Commercial Solid Waste Operator Franchise

**Amount of Funding:**

N/A

**FIN Budget:****SOURCE OF FUNDING:**    ☐ General Fund    ☐ Grant Fund    ☐ Enterprise Fund    ☐ Other  
(Specify)                      N/A**SPECIFIC EXPLANATION:**

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operators pursuant to Article VI, Chapter 39 of the City Code of Ordinances.

The proposed Franchises are:

1. Ching Lo DBA A. Uranus Service
2. Progressive Waste Solutions of TX, Inc.
3. Arrow Services 123, Inc.
4. Miggins Interests, LLC DBA Hydro Tech Utilities
5. Mouser Container Service, Inc.

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to four percent of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the Franchise, the Franchisee company has the duty to maintain required customer records, which the City has the right to inspect during regular business hours. The Franchise agreement contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed Franchise term is 10 years from the effective date.

**REQUIRED AUTHORIZATION****Finance Director:**

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

Item Creation Date: 9/19/2014

MYR ~ 2014 Houston FIRST Corp. Council Nominations

Agenda Item#: 42.

**Summary:**

RECEIVE nominations for Position B13 for the **HOUSTON FIRST CORPORATION BOARD OF DIRECTORS**, for a two year term ending December 31, 2015

**Background:**

Motion to set a date not less than seven (7) days from October 1, 2014, to receive nominations for Position B13 for the Houston First Corporation Board of Directors for a two-year term ending December 31, 2015.

JC/jsk

cc: Ms. Marta Crinejo, Agenda Director

**ATTACHMENTS:**

| Description  | Type               |
|--|--------------------|
| 📎 MYR ~ 2014 Houston FIRST Corp. Council Nominations | Signed Cover sheet |
| 📎 Motion 2014 0896                                   | Signed Cover sheet |

MOTION NO. 2014 0896

MOTION by Council Member Bradford that an item be placed on the Agenda of October 8, 2014 to receive nominations for Position B13 for the Houston First Corporation Board of Directors, for a two year term ending December 31, 2015.

Seconded by Council Member Costello and carried.

Mayor Pro Tem Gonzalez, Council Members Stardig,  
Davis, Cohen, Boykins, Nguyen, Pennington, Gallegos,  
Laster, Green, Costello, Kubosh, Bradford and voting aye  
Nays none

Mayor Parker, Council Members Martin and Christie out of the City on  
City business

Council Member Robinson absent on City business

Mayor Pro Tem Gonzalez presiding

PASSED AND ADOPTED this 1st day of October 2014.

Pursuant to Article VI, Section 6 of the City Charter, the  
effective date of the foregoing motion is October 7, 2014.

City Secretary

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

MYR - Review on the Record - Eid Car Care

Agenda Item#: 43.

**Summary:**

REVIEW on the record and make determination relative to the appeal from the decision of the Automotive Board, filed by Paul Kubosh and Associates, Attorney at Law, on behalf of Eid's Car Care, 9650 South Kirkwood Drive, 77099, regarding the revocation of license

**Contact Information:**

Tracy Calabrese, Sr. Assistant City Attorney  
832.393.6448

**ATTACHMENTS:**

| Description                        | Type               |
|------------------------------------|--------------------|
| ☐ Legal Correspondence             | Backup Material    |
| ☐ Transcript - April hearing       | Signed Cover sheet |
| ☐ Transcript - July hearing        | Backup Material    |
| ☐ Exhibits A-J                     | Backup Material    |
| ☐ Inspection summary 053112-070814 | Backup Material    |
| ☐ Board Judgement Letter           | Backup Material    |
| ☐ July hearing minutes             | Backup Material    |
| ☐ Eid Car Care Response document   | Backup Material    |



# CITY OF HOUSTON

Legal Department

## Interoffice

Correspondence

**To:** Anna Russell  
City Secretary

**From:** Tracy B. Calabrese *TC*  
Section Chief  
General Counsel Section

**Date:** September 10, 2014

**Subject:** Automotive Board Appeal - Craig  
Stewart for Eid's Car Care

By the attached correspondence, you have requested the Legal Department to advise whether the appeal of the revocation of Eid's Car Care facility license has been timely filed and therefore may be granted. The Legal Department received your request on September 9, 2014. The appeal is timely filed and may be granted.

Pursuant to § 8-57(b) of the City Code of Ordinances, an appeal from a decision of the Automotive Board to the City Council may be perfected by filing a written request in the Office of the City Secretary within 10 days after the action of the Board suspending the license. The notice of appeal states that the license was revoked on Tuesday, July 8, 2014. The notice of appeal was filed with the City Secretary on July 18, 2014. Therefore, the appeal is timely and may be granted.

Please also advise Lt. Hitzman, Houston Police Department, Secretary to the Automotive Board (832)394-4800, so that any exhibits or other written portions of the record in the possession of the Automotive Board may also be submitted to you for distribution to the City Council.

If you have any questions concerning this memorandum, please advise.

cc: Lt. Hitzman, HPD



CITY OF HOUSTON AUTOMOTIVE BOARD HEARING

IN RE: AUTOMOTIVE REPAIR FACILITY

REPAIR LICENSE #101835

FOR EID CAR CARE

LOCATED AT 9650 S. KIRKWOOD DRIVE, A-1

April 8, 2014

9:41 a.m. to 10:55 a.m.

1002 Washington Avenue, Basement Level

Houston, Texas 77002

Board Members Present:

Ken Ulmer, Chairman

Timothy Straney

Owen Wang

Mazen Allaham

Erma Palmer

Shelly Richardson





1 CHAIRMAN ULMER: Elias Eid. If you'd step on up,  
2 any witnesses that you have. Just have a seat right  
3 there. Right here.

4 MR. ELIAS: Right here?

5 CHAIRMAN ULMER: Yeah, the table. Do you have  
6 any witness or anything today?

7 MR. ELIAS: I have my lawyer. He's not here.

8 CHAIRMAN ULMER: Okay. Your lawyer's not here?

9 MR. ELIAS: No.

10 SGT. GRIFFIN: Do you want to step out and call  
11 him?

12 CHAIRMAN ULMER: Yeah.

13 SGT. GRIFFIN: It might be a good idea.

14 CHAIRMAN ULMER: Yeah, if your attorney's not  
15 here, you probably want to do that.

16 [Recess]

17 CHAIRMAN ULMER: So let's -- a little bit of  
18 change of pace here. Let's move back to No. 1,  
19 Mr. Elias Eid. Your attorney is here now, correct?

20 MR. STEWART: Yes.

21 CHAIRMAN ULMER: Okay. You guys come on up and  
22 sit at the podium there. All right. We'll go ahead and  
23 swear in the --

24 SGT. GRIFFIN: Everyone who's going to testify,  
25 would you please raise your right hand?

1 [The witnesses were sworn by Sgt. Griffin]

2 CHAIRMAN ULMER: All right, sir.

3 SGT. GRIFFIN: This is a business revocation  
4 hearing that was brought by Officer Larry Vaughn, and so  
5 Officer Vaughn will outline the case and all the  
6 evidence that goes with it.

7 CHAIRMAN ULMER: Okay.

8 OFFICER VAUGHN: Mr. Elias is being brought  
9 before the Automotive Board to suspend his automotive  
10 repair facility license for the following violations:  
11 The fence requirement violations, parts on the ground  
12 violations, inaccurate repair order/records  
13 violations --

14 MR. ALLAHAM: I'm sorry, could you speak a little  
15 louder?

16 OFFICER VAUGHN: Okay. Fence requirements  
17 violations, the parts on the ground violations,  
18 inaccurate repair orders/work order violations/records  
19 and high weeds violations. Does everybody have a copy  
20 of this?

21 CHAIRMAN ULMER: Yes, we do.

22 OFFICER VAUGHN: Okay. The Exhibits A to J show  
23 the notice of violation, notice to appear, rights of  
24 appeal, copy of the automotive repair facility  
25 application, deed restrictions, certificate of

1 occupancy, d/b/a, his ARF license.

2 And H shows inspections that were done at his  
3 business from May 12th to yesterday, April 14th. 4-14,  
4 I'm sorry.

5 And I shows the photos were taken at the business  
6 on those particular dates, 12-5-13, 1-14-14 and 4-7-14.

7 And J, supervisor, Sergeant Clark, did a  
8 follow-up after one of the inspections in February 8,  
9 2014.

10 CHAIRMAN ULMER: How many actual inspections have  
11 taken place?

12 OFFICER VAUGHN: Including the one yesterday  
13 before the board, I think eight.

14 CHAIRMAN ULMER: Eight inspections?

15 MR. ALLAHAM: We have like four of them, right?

16 OFFICER SHANNON: Three were taken in 2012.

17 CHAIRMAN ULMER: Okay. So --

18 OFFICER SHANNON: Uh-huh. Three were taken in  
19 '13.

20 CHAIRMAN ULMER: If you will look at the  
21 printout --

22 OFFICER SHANNON: Exhibit H. All the inspections  
23 are under Exhibit H.

24 MR. ALLAHAM: Exhibit H?

25 OFFICER SHANNON: Yes, along with the notice.

1           OFFICER VAUGHN: The inspections, the contact  
2 plus after, the citations -- copies of the citations  
3 that were issued, they're all in Exhibit H.

4           MR. ALLAHAM: Exhibit H, this one?

5           OFFICER SHANNON: Yes, everything behind that.

6           CHAIRMAN ULMER: Is this at a strip center,  
7 strip type center?

8           OFFICER VAUGHN: Yes, sir.

9           MR. ALLAHAM: It seems like it's not improving.  
10 It's kind of falling behind as we go, correct?

11          OFFICER VAUGHN: On yesterday, when I went out  
12 for the inspection, he had made some improvements, but  
13 the big problem is he has a space that is clearly not  
14 adequate for his business. He has cars that are taking  
15 over the strip center, basically.

16          MR. ALLAHAM: As I'm looking here, 10-16 and 2013  
17 you have only checked three violations.

18          OFFICER VAUGHN: Yes, sir.

19          MR. ALLAHAM: We go to the one after that, you  
20 checked five. And then you go to the one after that,  
21 you checked one, two, three, four, five, six, seven,  
22 eight, nine.

23          OFFICER VAUGHN: That's correct, at that time  
24 before he was basically told he was going to come before  
25 the board is when he --

1 MR. ALLAHAM: And then the last --

2 OFFICER VAUGHN: -- started to do some of the  
3 cleanup.

4 MR. ALLAHAM: The last one you did one, two,  
5 three, four, five, six, seven. So --

6 OFFICER VAUGHN: Not great improvement, but some  
7 improvement.

8 MR. ALLAHAM: Some improvement over the previous  
9 time but not over the first time?

10 OFFICER VAUGHN: Correct.

11 MR. ALLAHAM: Nine violations. I don't call that  
12 improvement.

13 CHAIRMAN ULMER: All right. Is that your case?

14 OFFICER VAUGHN: I'm sorry?

15 CHAIRMAN ULMER: Does that conclude your case,  
16 everything you're presenting?

17 OFFICER VAUGHN: Yes, sir.

18 CHAIRMAN ULMER: Okay. So Mr. Elias --

19 MR. ELIAS: Yes.

20 CHAIRMAN ULMER: -- or Elias?

21 MR. ELIAS: Yes, sir.

22 CHAIRMAN ULMER: Elias?

23 MR. ELIAS: Yes, sir.

24 CHAIRMAN ULMER: Okay. This is your opportunity  
25 to address the case that's been presented. You heard

1 the case that's been presented today. Do you have  
2 anything that you would like to enter into evidence for  
3 today?

4 MR. STEWART: We do. My name is Craig Stewart,  
5 and I'm representing Mr. Elias. As some of y'all  
6 know -- I've met a lot of you before, I was here  
7 previously -- I work for Paul Kubosh's office.

8 I'm going to distribute some binders to those of  
9 y'all who are here, the committee members, if I may.  
10 I'll hang on to one for myself so we can all look  
11 together.

12 The first thing I'd like to say is these are the  
13 first time -- this is the first time that I've seen any  
14 of these pictures that are in these exhibits here.  
15 There were a series, I guess, of tickets written to  
16 Mr. Elias, all of which were dismissed, you know, 15  
17 violations, I guess, 15 dismissals regarding this. So  
18 it would have been nice if -- you know, honestly, if  
19 this would have been presented a lot earlier, a year  
20 ago, two years ago, whenever these initial violations  
21 were happening.

22 It's difficult to defend what happened a year or  
23 two or three years ago, I guess, you know, when, you  
24 know, we're called before the board just now.

25 When we look at the listed violations that are

1 causing the hearing, and those are on page 1 there of  
2 your binders there. There are five violations,  
3 basically, that have been cited as to why this hearing  
4 has been called.

5 The first being the fencing wall requirement  
6 under 8-30(d) of the City of Houston Municipal  
7 Ordinances.

8 Second, parts being six inches above the ground,  
9 which is section 8-30(i)(2).

10 Third, grass 9 inches above the ground, which is  
11 section 8-30(j).

12 And section 8-30(l), which is that it requires  
13 all requirements of the, pardon me, Fire Code and the  
14 health and safety issues.

15 And, finally, that he has to maintain a proper  
16 register of repairs.

17 Now, if you'll look, every photo in this binder,  
18 save for the first one here, which is kind of an  
19 overhead shot, is taken yesterday. So I think it's a  
20 more accurate depiction of what's going on out there at  
21 his shop.

22 And you don't see any trash, you don't see any  
23 rubbish, you don't see, you know, this pile of mess and  
24 weeds and whatever this is, you know, besides these  
25 cars.

1 I mean this is not a depiction of the way  
2 Mr. Eid's shop looks. It's just not. I've been out  
3 there. I took the pictures.

4 CHAIRMAN ULMER: So let me ask you this. Are you  
5 saying that these photos are inaccurate then, that it  
6 didn't look like this at this particular time, or you're  
7 just saying it's been cleaned up now?

8 MR. STEWART: I can't speak to that.

9 CHAIRMAN ULMER: Okay.

10 MR. STEWART: All right? Mr. Eid can address  
11 that and some of the other people --

12 MR. ALLAHAM: You're saying we should ignore the  
13 pictures of the police department inspectors actually  
14 and from now on start sending attorneys to do this?

15 MR. STEWART: No, certainly not, but I think  
16 that, you know, if there are these kind of issues, it  
17 would have been nice to have seen this and dealt with  
18 this two years ago, I guess, when it became a problem.  
19 You know, I wish that --

20 MR. ALLAHAM: I'm sorry, I don't understand.  
21 What do you mean by that?

22 MR. STEWART: Well, by this I know that Mr. Eid  
23 has expressed to me, and I'll let him speak to this  
24 more, but I think he's been a little frustrated at the  
25 process as it's gone on, because he doesn't understand,



1 you know, how to correct things and what exactly needs  
2 to be corrected and how to go about fixing any  
3 deficiencies that are there.

4 CHAIRMAN ULMER: Well, as an attorney, I would  
5 think that you would advise him to read City ordinance,  
6 and it's pretty easy to figure that out.

7 MR. STEWART: Sure, and --

8 CHAIRMAN ULMER: As well, he's had a police  
9 officer out there who has given him an inspection  
10 report. Has he not received an inspection report every  
11 time one of these inspections were done?

12 MR. STEWART: Right, but let's look at what's on  
13 an inspection report. I've --

14 CHAIRMAN ULMER: Okay.

15 MR. STEWART: -- got a copy of one here. And on  
16 the inspection report it will say -- and this is the  
17 extent of what it will say -- failure to construct or  
18 maintain a solid fence.

19 CHAIRMAN ULMER: Okay.

20 MR. STEWART: That's not clear to a normal  
21 person, you know, how to fix that, right?

22 CHAIRMAN ULMER: Well, hold on, let's actually  
23 get to that inspection report. Do you notice out there  
24 to the side of it it actually states a specific section  
25 where you find that?

1 MR. STEWART: Sure.

2 CHAIRMAN ULMER: So it would be pretty obvious to  
3 me when I look at that and go hey, maybe I should go  
4 read 8-51 and see what that says.

5 MR. STEWART: Maybe.

6 CHAIRMAN ULMER: Right?

7 MR. STEWART: I agree.

8 CHAIRMAN ULMER: Wouldn't you think that? I  
9 mean --

10 MR. STEWART: Yes.

11 CHAIRMAN ULMER: That's the reason I actually  
12 like these inspection reports. I think they're very  
13 thorough.

14 MR. STEWART: I just wish there was a little bit  
15 more detail with regards -- like I like the notes that  
16 are on the bottom --

17 CHAIRMAN ULMER: I think we're --

18 MR. STEWART: -- of the one that was --

19 CHAIRMAN ULMER: -- spending a whole lot of time  
20 talking about why this case hasn't been brought before  
21 the board earlier, --

22 MR. STEWART: Uh-huh.

23 CHAIRMAN ULMER: -- when, in reality, auto  
24 dealers is doing their due diligence in following up  
25 with someone and trying to give them an opportunity to

1     repair the problems.

2             MR. STEWART:    Sure.

3             CHAIRMAN ULMER:   And they're not saying -- the  
4     board has frowned in the past on people who were brought  
5     to the board too quickly before they had an opportunity  
6     to --

7             MR. STEWART:    Right.

8             CHAIRMAN ULMER:   -- fix some of their problems.  
9     So I think it's an actual advantage for the business,  
10    for the automotive -- for the auto dealers detail to  
11    follow through with them in an attempt to get them back  
12    on track.

13            I really think it's exactly the opposite of the  
14    way that you're portraying it, in that they've given him  
15    an inspection report that refers to the actual City  
16    ordinance.   I mean I think you're given a whole lot of  
17    information.

18            MR. STEWART:    Okay.   Well, as of yesterday, when  
19    the inspector was out there, when Officer Vaughn was out  
20    there, he commended Mr. Eid for the improvement that he  
21    had seen in certain aspects.   He commended him on --  
22    it's written here on the report, there's improvement on  
23    work orders of vehicles.

24            You know, he's said that there's a lot of  
25    improvement.   You don't see the rubbish issues anymore.

1 You don't see the Fire Code issues anymore.

2 And I'm going to let Mr. Eid speak a little bit  
3 about the status of his business and how things have  
4 improved. It's not a downward trend that we're looking  
5 at here. What we're looking at is he's addressed the  
6 crux of the issues here, the main issues. I mean he's  
7 not going to run a bad business. And I'm going to let  
8 him talk a little bit about that.

9 Mr. Eid.

10 CHAIRMAN ULMER: Okay.

11 MR. ELIAS: My place is inside the shopping  
12 center, and behind my shopping center is you have the  
13 fence. And I park the car. In the front in a church,  
14 the church let me park a car over there while I'm  
15 building my own new shop.

16 And all the trash, you have a meat market behind  
17 me, and you have a restaurant behind me. The floor all  
18 full of trash, meat and bones in the trash, and you give  
19 me all this kind of violation for it, and I say this is  
20 not my things. This is not my cat. This is not my  
21 trash. This is not my things. I do my best to clean it  
22 up.

23 I go to a car. This officer come in around  
24 1 o'clock always. I'm too busy, and I have a car. I  
25 order parts on a car. I put it in the front of the car.

1 I'm working on the car and take off of old parts, put it  
2 next to the car. After I finish it, I picked it up, I  
3 put it inside the basket inside the shop, inside the  
4 basket. Every week a junk yard come and pick it up.  
5 And this is what I do. You know, he give me a violation  
6 for all these kind of things.

7 He give me a violation for oil tank is not six  
8 inch above ground. I'm look at it, and I call people,  
9 is this six inch? Tell me no, it's eight inch. Why I  
10 have a pallet and four-by-four and an oil tank inside  
11 the cage.

12 I have big barrel. Officer Shannon come in  
13 before him, and she tell me I need you put pan under oil  
14 barrel. And I did buy one, and I put it in. And after  
15 I put it in, you know, all of the trash and all this,  
16 there's oil and paper and all this inside it. It's no  
17 oil. It's no oil inside. It's only oil filter dry.

18 You know, they tell me no, I need it off of the  
19 ground six inches. What I did, I take off of pallet, I  
20 trash it, I put the pallet with six inches. It's done.

21 CHAIRMAN ULMER: Do you have any photos here of  
22 the things that you're talking about or --

23 MR. ELIAS: Yes, sir, I do have photo here with  
24 me here, too.

25 CHAIRMAN ULMER: Okay. Would you pass those out

1 to the board? I noticed in here I don't have any  
2 photos -- I've got some outside photos.

3 MR. ALLAHAM: Here's the oil pan and it's sitting  
4 on a four-by-four, and --

5 CHAIRMAN ULMER: Yeah.

6 MR. ALLAHAM: -- a four-by-four is not a six-inch  
7 height.

8 CHAIRMAN ULMER: Right. Those are the same  
9 thing.

10 OFFICER VAUGHN: Yeah, and I don't think he was  
11 written for six inches for a barrel. He was written for  
12 diking or for something else from six inches, like --

13 CHAIRMAN ULMER: Yeah, the actual --

14 OFFICER VAUGHN: -- batteries on the ground and  
15 parts on the ground.

16 CHAIRMAN ULMER: The actual 55-gallon drum is  
17 sitting on the ground.

18 OFFICER VAUGHN: Yes, in the photo.

19 MR. ELIAS: The drum is in the ground but inside  
20 the oil pan. Officer Shannon, --

21 CHAIRMAN ULMER: Not in this photo it's not.

22 MR. ELIAS: -- she look --

23 CHAIRMAN ULMER: You have the photo in your  
24 packet.

25 MR. ELIAS: Which is the one? I don't see it too

1 good.

2 MR. STEWART: What page is that?

3 CHAIRMAN ULMER: This is the first -- you have it  
4 in your packet, as well.

5 MR. STEWART: I think this is what he's --

6 MR. ELIAS: Yeah, this one here? Okay.

7 CHAIRMAN ULMER: Hold it up. Let me see.

8 MR. ELIAS: This is a long time ago. I have it  
9 in the basket, all the junk.

10 CHAIRMAN ULMER: Okay.

11 MR. ELIAS: And the pan in the floor.

12 CHAIRMAN ULMER: Well, do you have some photos of  
13 it now?

14 MR. ELIAS: And Officer Shannon, she tell me put  
15 pan. And I did put pan.

16 CHAIRMAN ULMER: Okay.

17 MR. ELIAS: Even she gave me two violations.

18 CHAIRMAN ULMER: Well, do you have some photos of  
19 now?

20 MR. STEWART: Yes.

21 MR. ELIAS: Yes, sir, I do. I have a few.

22 OFFICER VAUGHN: I actually have some photos, as  
23 well, that --

24 CHAIRMAN ULMER: Okay.

25 OFFICER VAUGHN: From yesterday.

1 CHAIRMAN ULMER: Okay.

2 MR. STEWART: We'd like to see the officer's  
3 photos, if that's okay. I'm looking for the relevant  
4 photos.

5 OFFICER SHANNON: They're in the -- in the  
6 packet.

7 OFFICER VAUGHN: Well, no, no, no, I actually  
8 took new ones yesterday. Like his attorney said, he has  
9 some photos. His photos and my photos are clearly not  
10 the same.

11 CHAIRMAN ULMER: Okay.

12 MS. CALABRESE: Do you have a copy for the  
13 attorney?

14 MR. STEWART: I don't see one --

15 OFFICER VAUGHN: Yeah, I mean he can --

16 MR. STEWART: -- that's clear --

17 OFFICER VAUGHN: He can --

18 MR. STEWART: -- of the oil area. I've got more  
19 photos that I didn't print out that I took yesterday.

20 CHAIRMAN ULMER: Well, why don't -- why don't you  
21 take a look first at the officer's photos as of  
22 yesterday.

23 MR. STEWART: Okay.

24 CHAIRMAN ULMER: And then we will, as well, begin  
25 to pass around Mr. Elias's photos.



1 MR. STEWART: Sure.

2 MR. ELIAS: Yeah, this is the new.

3 MR. STEWART: There we go. This is --

4 MR. ELIAS: This is the new. Yeah, this is what  
5 I did, but I take off the trash inside the basket in the  
6 shop.

7 MR. STEWART: Can you hold it up so they can see  
8 what you're referring to?

9 MR. ELIAS: And I put it in six inch --

10 CHAIRMAN ULMER: Show me which photo you're  
11 referring to.

12 MR. ELIAS: I put it in six-inch wood under it,  
13 and I put the trash, rotor and all this, in the tub.  
14 Every week I have my son with a truck come and pick it  
15 up. And this is oil tanks inside the cage in eight inch  
16 above the ground.

17 OFFICER VAUGHN: Yeah, that's not -- that's not  
18 one of your violations.

19 MR. WANG: Officer Vaughn, every time you go to  
20 his shop, do you show him all his mistakes?

21 OFFICER VAUGHN: Absolutely.

22 MR. WANG: And before you make a picture for  
23 this, he knows the picture is from his shop?

24 OFFICER VAUGHN: Yes, sir.

25 MR. WANG: Every time you did tell him how to

1 correct the problem?

2 OFFICER VAUGHN: Yes, sir.

3 MR. WANG: But this problem exist from 2012 to  
4 2014. The last time you inspection the property still  
5 have some problem there?

6 OFFICER VAUGHN: Yes, sir, still have some  
7 problems there. And as well as Sergeant Clark went  
8 there and explained it, as well. And he was also with  
9 me yesterday and explained what needed to be done to get  
10 him in compliance.

11 MR. WANG: So this was in his shop you make this  
12 picture yesterday?

13 OFFICER VAUGHN: Those are not my photos.

14 MR. STEWART: No, those are his photos. His  
15 photos were not yesterday. When were those taken,  
16 Mr. Elias?

17 MR. ELIAS: I don't remember exactly, but it's  
18 several days ago.

19 MR. WANG: Several days ago?

20 MR. ELIAS: Yeah, it's not -- I don't know  
21 exactly. It may have a date in it in the back --

22 MR. ALLAHAM: Okay. The thing is -- the thing is  
23 I mean you could clean up and take a couple pictures,  
24 but what we're looking for is to be clean all the time.  
25 That's why the inspector goes in unannounced and check

1 your shop.

2 So just to clean up for a day, it's not enough.  
3 If you bring me a picture that says it's clean, that's  
4 not enough, because I don't know how long you've been --

5 MR. ELIAS: I do clean it every day, but, see --

6 MR. ALLAHAM: So what you need to pass is his  
7 inspection. Keep it clean. He might show up tomorrow.  
8 He might show up a week from now. He might show up a  
9 month from now. That's why you need to keep it clean.  
10 When he shows up and give us a report that it's clean  
11 and no violations, that's what we go by.

12 But you bring me a picture. I mean I could go in  
13 my business, I had a violation, then I would fix it for  
14 a day, and then next day I don't do anything, then that  
15 doesn't do us any good.

16 MR. ELIAS: What I -- what I can do with the junk  
17 parts that I take it off out of a car --

18 MR. ALLAHAM: What I'm trying to tell you is you  
19 have to pass his inspection.

20 MR. ELIAS: Officer, he come in to me, he park  
21 the car in the street, and with his camera, and a  
22 customer tell me what you do? You do all the camera  
23 things? A picture of everything. What I have to do?  
24 Come in the shop, sign here, sign here, and thank you.  
25 That's it. He never tell me I need to do this, I need

1 to do this, I need to do this.

2 MR. ALLAHAM: He does that not just to you. He  
3 goes to a lot of businesses. I mean he's not just --

4 MR. ELIAS: This is good, except somebody new for  
5 it.

6 MR. ALLAHAM: So how come --

7 MR. ELIAS: You can teach them --

8 MR. ALLAHAM: -- everybody passes it --

9 MR. ELIAS: -- what they have to do.

10 Mr. ALLAHAM: -- and you don't?

11 MR. WANG: Officer Vaughn represent the City of  
12 Houston to inspect your shop. It's your duty, your  
13 obligation to keep your shop pass the City ordinance.  
14 Okay? And this supposed to pass everything. If Officer  
15 Vaughn, since 2012, come to your place until 2014, he  
16 give you two years time to correct the problem, and you  
17 still have a problem, --

18 MR. ELIAS: 2012?

19 MR. WANG: -- that --

20 MR. ALLAHAM: Let me ask you something. How  
21 about failure to maintain accurate records? That was --  
22 that was yesterday.

23 MR. ELIAS: What is it?

24 MR. ALLAHAM: Failure to maintain accurate  
25 records, you know, like work orders. That's correct,

1 right?

2 OFFICER VAUGHN: That's correct.

3 MR. ALLAHAM: Okay. How come you don't have that  
4 yesterday?

5 MR. ELIAS: I don't understand.

6 MR. STEWART: He says you don't have accurate  
7 work orders.

8 MR. ELIAS: Accurate work orders?

9 MR. ALLAHAM: That's one of the violations.

10 OFFICER VAUGHN: Yeah, so when I first started  
11 going out there to inspect, he had work orders on  
12 vehicles or no work order at all.

13 MR. ALLAHAM: Right.

14 OFFICER VAUGHN: No information, not the date he  
15 took it in, not the work he was going to do on it,  
16 nothing. There was nothing on it.

17 MR. ALLAHAM: Right.

18 OFFICER VAUGHN: And some he didn't even have a  
19 work order.

20 MR. ALLAHAM: Right.

21 OFFICER VAUGHN: So yesterday when I went --  
22 well, before Sergeant Clark went. He explained it to  
23 him. I explained to him you need to have this  
24 completely filled out. We need to know the day it came  
25 in, what type of work you're doing on the vehicle, you

1 know, who is the person that owns the car. That wasn't  
2 even on some of the work orders.

3 He has made some improvements on that. He has.  
4 But I still found some that didn't have the date that it  
5 came in, that didn't have the vehicle information on it.

6 MR. ALLAHAM: That's what I'm talking about, like  
7 he already knows that he's supposed to keep accurate  
8 records on all the vehicles that he has, but still he  
9 failed yesterday, and he had prior knowledge of what the  
10 officer was looking for.

11 OFFICER VAUGHN: Yeah, and not only that, the  
12 work orders are placed in the windshield and the  
13 dashboard. Public just walking by, they can see all  
14 these people's information on it.

15 MR. ALLAHAM: Right.

16 OFFICER VAUGHN: You know, personal information  
17 on the work order that -- the ones that did have it, you  
18 know, because they're parked all over the shopping  
19 strip, and you can see in the --

20 MR. ALLAHAM: So I mean --

21 OFFICER VAUGHN: -- pictures that I took  
22 yesterday.

23 MR. ALLAHAM: -- those are supposed to be done  
24 but still failed to do it on some of the vehicles.

25 OFFICER VAUGHN: That's correct.

1 CHAIRMAN ULMER: Mr. Elias, I want to ask you a  
2 question. You stated that in this photo that those oil  
3 drums in that tank are six inches off the ground?

4 MR. ELIAS: The one in the tank?

5 MR. STEWART: The one --

6 CHAIRMAN ULMER: Yeah.

7 MR. STEWART: -- that he's showing.

8 CHAIRMAN ULMER: On this photo.

9 MR. ELIAS: One photo oil?

10 CHAIRMAN ULMER: The photo you just held up.

11 MR. ELIAS: The one photo oil?

12 CHAIRMAN ULMER: Uh-huh.

13 MR. ELIAS: It's more than six.

14 CHAIRMAN ULMER: No, it's not.

15 MR. ELIAS: I swear. I measure --

16 CHAIRMAN ULMER: There's a standard height --

17 MR. ELIAS: -- did the measurement.

18 CHAIRMAN ULMER: -- for pallets. That's a pallet  
19 that's underneath it.

20 MR. ELIAS: And under it you have a four-by-four,  
21 too, under the pallet.

22 CHAIRMAN ULMER: Did you actually measure it?  
23 Because it doesn't look like six inches to me.

24 OFFICER VAUGHN: I didn't actually measure it.

25 CHAIRMAN ULMER: A pallet is about five inches

1 thick, but the oil drum is no more than five or six  
2 inches off the ground. It's less than six inches, for  
3 sure.

4 And, as well, the oil drum's been leaking. You  
5 can see where it's leaked on the ground.

6 MR. ELIAS: An oil?

7 CHAIRMAN ULMER: Yeah.

8 MR. ELIAS: Okay.

9 CHAIRMAN ULMER: You don't agree that that's oil  
10 leaking on the ground?

11 MR. ELIAS: Oh, this is -- okay. I --

12 CHAIRMAN ULMER: Is that six inches off the  
13 ground? Answer me that.

14 MR. ELIAS: This -- this is not oil. This is not  
15 oil.

16 CHAIRMAN ULMER: What is that?

17 MR. ELIAS: I moved to this shop. This mechanic  
18 shop was open for one year.

19 CHAIRMAN ULMER: It says, "Freedom Oil Recycling,  
20 used oil." That's what it says on the side of it.

21 MR. ELIAS: This is old oil inside it, yes.

22 CHAIRMAN ULMER: Okay.

23 MR. ELIAS: I'm here in the shop for two years  
24 and a half. This has been here -- for 18 years it's  
25 there. It's a mechanic shop for 20 years.



1 oil on the ground. I can see it.

2 MR. ELIAS: This is not oil on the ground.

3 CHAIRMAN ULMER: Officer, is that oil that's on  
4 the ground all around this tank?

5 OFFICER VAUGHN: Yes, sir, it is.

6 CHAIRMAN ULMER: Okay.

7 OFFICER VAUGHN: It is.

8 CHAIRMAN ULMER: It appears to be oil to me.

9 OFFICER VAUGHN: And he has attempted to clean  
10 some of it up, but just yesterday they like pressure  
11 washed or something the area around the business, and  
12 there's clearly some type of oily fluid that's just  
13 running into the drain that they washed up. They didn't  
14 dry sweep it or whatever.

15 MR. ALLAHAM: And see those pictures, the ones  
16 that they show the trash bags?

17 MR. ELIAS: That's the people for the trash.

18 MR. ALLAHAM: I know, but --

19 MR. ELIAS: Yes. You know, every time --

20 MR. ALLAHAM: -- that tells me a couple of hours  
21 before you took that picture that shop was a mess.

22 MR. STEWART: Those -- those aren't his trash.  
23 That's the people next door to him.

24 MS. CALABRESE: Excuse me.

25 MR. ELIAS: This is next door, is not me.

1 MR. STEWART: He took those pictures --

2 MS. CALABRESE: Mr. Stewart --

3 MR. ELIAS: I take a picture for it.

4 MS. CALABRESE: Mr. Stewart --

5 MR. STEWART: Yes.

6 MR. ELIAS: This all the time you have windy. It  
7 come into my shop. My shop is right away on the corner.

8 MR. ALLAHAM: Why, they don't have a dumpster  
9 over there? Is that your dumpster or --

10 MR. ELIAS: It's not mine. My dumpster in the  
11 front of building all the way.

12 MS. CALABRESE: Mr. Stewart, you're going to have  
13 to either be the attorney or take the oath and be a  
14 witness, but you can't be both. Okay?

15 MR. STEWART: Okay.

16 MS. CALABRESE: If you're going to elicit  
17 evidence, it needs to come from someone else, not you.

18 MR. STEWART: Sure.

19 SGT. CLARK: I'd like to say that regarding that  
20 trash situation you just brought up, there is a  
21 restaurant that like faces Bissonnet facing north which  
22 is around the corner. He's like on the south and east  
23 corner of this strip center that's at Bissonnet and  
24 Kirkwood on the southwest corner.

25 Now, there is a restaurant over there. I'm not

1     sure what kind of restaurant it is, but they do put a  
2     lot of trash and food garbage out there. The day I was  
3     there, there was actually a -- like a pan you would  
4     roast a turkey in, and, you know, the juices and all  
5     that stuff that's so delicious, they just set it  
6     outside.

7             And, of course, the cats, the feral cats, are  
8     going to come from miles around. And they're not a very  
9     clean restaurant.

10            So, in his defense, that food garbage in that  
11     trash, the dumpsters, I do believe that's a restaurant  
12     issue that he has trouble controlling.

13            MR. ALLAHAM: Anyway, do you guys -- do you guys  
14     write him up for that?

15            OFFICER VAUGHN: No.

16            SGT. CLARK: That's another --

17            OFFICER VAUGHN: That was going to be my point.  
18     That hasn't been an issue.

19            MR. ALLAHAM: Right.

20            OFFICER VAUGHN: The trash that I took photos of  
21     and stuff, that's in and around his vehicles that he has  
22     stored in the back that are not behind the solid fence,  
23     as well.

24            MR. ALLAHAM: And the vehicles held over 30 days,  
25     that's why the fence requirement --

1 OFFICER VAUGHN: Yes, sir.

2 MR. ALLAHAM: -- comes in, right?

3 OFFICER VAUGHN: Yes, sir.

4 MR. WANG: Do you have a fence around your place  
5 now?

6 MR. ELIAS: In the back I have a fence. In the  
7 front, no fence. It's a shopping center.

8 MR. ALLAHAM: Okay. But you have cars that have  
9 been sitting here for more than 30 days.

10 MR. ELIAS: I have -- I have cars. I'm order  
11 parts. Like I have two --

12 MR. ALLAHAM: Okay. But --

13 MR. ELIAS: It's over 30 days I have it, yes.

14 MR. ALLAHAM: The City ordinance says if you're  
15 going to keep it more than 30 days, then you're a  
16 storage, then you're going to have a fence. I mean it's  
17 not my decision. It's that's what the City ordinance.

18 MR. STEWART: Now, I think that to resolve that  
19 issue --

20 MR. ALLAHAM: I mean I can understand why he does  
21 keep them, and I have a lot of friends in the business  
22 that they do that, but still I mean you have to comply  
23 with --

24 MR. STEWART: Certainly.

25 MR. ALLAHAM: -- the City ordinance.

1 MR. STEWART: Certainly.

2 MR. ALLAHAM: I mean it's not up to me.

3 MR. STEWART: I think part of the biggest problem  
4 that Mr. Eid is facing here is part of the limitations  
5 of his space. And I think --

6 SGT. CLARK: That's exactly what it is.

7 OFFICER VAUGHN: That's exactly what it is.

8 MR. STEWART: And Officer Vaughn and Sergeant  
9 Clark, I believe it is -- is that what --

10 SGT. CLARK: Yes.

11 MR. STEWART: -- have addressed that. He's not  
12 willfully failing to comply with any sorts of  
13 regulations, and he's trying to make efforts to clean up  
14 his shop and do what's necessary.

15 MR. ALLAHAM: Okay. Do you think he'll clean it  
16 in 30 days if we give him 30 days continuance?

17 MR. STEWART: Yes.

18 MR. ALLAHAM: Okay. And he's going to have to go  
19 through his inspection and pass his inspection. Do you  
20 agree there?

21 MR. STEWART: Yes, and I think that in 30 days we  
22 can -- I can get him to where he can pass inspection.

23 SGT. CLARK: I just want to make it clear -- and  
24 Eid and I talked about this in February when I went out  
25 there, because I spent a lot of time with him walking

1 around. He was very concerned. He called me, left  
2 messages. So I went over there. It's going to be hard  
3 for him to build a solid fence at this location, because  
4 it is a strip center, and they require certain alleyways  
5 to be open.

6 Now, a solid fence means just that, solid. We're  
7 not talking about a solid cyclone fence. That's not  
8 solid. You can see through it, you know. Solid is  
9 meant to hide, basically, from the public's view.

10 MR. ALLAHAM: I think he's got to probably end up  
11 fixing that problem some other way.

12 SGT. CLARK: Right.

13 MR. ALLAHAM: Like not having cars for over 30  
14 days.

15 SGT. CLARK: Right. And he has a lot of people  
16 that he does business with that come in, they're on hard  
17 times, and they need something done, and they can't pay  
18 this week, and then that turns into a month, and it  
19 just -- the cars -- and being the type of person he is,  
20 he wants to try to help them, but the problem is, is  
21 they wind up leaving their cars, and they don't get  
22 disposed of. They don't come and get them.

23 MR. ALLAHAM: Okay. Well, that's one issue. How  
24 about the other issues?

25 OFFICER VAUGHN: The car issue, just let me touch

1 on that one second. He -- he has way too many vehicles.  
2 There's -- and not enough space even if he had a solid  
3 fence. There's no room. He would be encroaching on  
4 every other business that's in that shopping strip.

5 He can't do what he does there there. He needs  
6 to move to a better location where he can store all the  
7 vehicles behind a fence, he can work on all the vehicles  
8 he wants, and then he won't have all these other  
9 violations. He has to work on his work orders, the  
10 fence issue, parts on the ground, you know, that type of  
11 thing. But it's just not going to happen at that  
12 location.

13 You can clearly see in the video -- in the photos  
14 that he has cars taking up almost every parking space on  
15 the southeast side of that shopping strip.

16 MR. STEWART: May I respond briefly?

17 MR. ALLAHAM: Yeah.

18 MR. STEWART: I think that officer -- you know, I  
19 agree with Officer Vaughn's assessment that, you know,  
20 that location is a problem, which is why Mr. Eid is  
21 right now in the process of trying to work on getting a  
22 new location, and Mr. Elick here, if he can briefly  
23 address those issues, --

24 MR. ELICK: Sure.

25 MR. STEWART: -- what's going on with that.

1           SGT. GRIFFIN: If you could please state your  
2 name for the record.

3           MR. ELICK: Yeah, I'm Jerry Elick, E-l-i-c-k,  
4 Nova Development & Construction. We designed him a  
5 brand new building. He bought the land on 8611 South  
6 Kirkwood on the north side of his current lease space,  
7 which the landlord very seldom mowed the grass. I've  
8 been over there many, many times, and it's a joke.

9           But, anyway, but he bought this ground. So he's  
10 going to put a brand new building in there, clean  
11 building for all the regulations, and that -- we're  
12 going through the permitting process right now. And as  
13 he -- he has just about an acre of ground.

14           He started off with a six-bay facility, has now  
15 put on two more bays for the first building later. He's  
16 got a lot of parking in the back. He's got tons of  
17 parking. He's got an acre of ground. The visibility  
18 sits up close to Kirkwood.

19           And he also has enough ground, besides the  
20 parking in the back, to put another building back there  
21 if he wants it for more inside space so he can work on  
22 more cars.

23           He has an awful good business. I've been over  
24 there so many times. It's amazing the business that he  
25 has, but he has made an effort to buy the ground, hired



1 me to design the building, which I did. Now it's on the  
2 -- now it's in the City. As soon as that's out, we  
3 start building the thing.

4 CHAIRMAN ULMER: What's the time frame on that?

5 MR. ELICK: Ask the City. I don't know.

6 CHAIRMAN ULMER: Well, I mean you're a builder.  
7 What is your --

8 MR. ELICK: Oh, I'd say probably about -- before  
9 you get the permit -- it's in County right now for  
10 draining into the bayou there, Braes Bayou, the  
11 drainage. That should be out this week, their approval  
12 to drain into the bayou or the bayou, whatever you want  
13 to say. And then after that, as soon as they get that,  
14 they'll put it into the plans, take it back to the City.  
15 And who knows how long it takes?

16 CHAIRMAN ULMER: Well, and I think --

17 MR. ELICK: Because I mean some of them are fast,  
18 some of them are slower than heck.

19 CHAIRMAN ULMER: Well, and let me just -- you  
20 know, I think the big problem here is it looks like he's  
21 a terrible neighbor. I mean this is a strip center with  
22 other businesses, right? Aren't there other  
23 businesses --

24 OFFICER VAUGHN: Yes.

25 CHAIRMAN ULMER: -- in this strip center?

1 OFFICER VAUGHN: Yes.

2 CHAIRMAN ULMER: I mean if you look at the  
3 parking in the strip center, there are actually cars  
4 jacked up with jack stands underneath them in the  
5 parking lot of the strip center.

6 OFFICER VAUGHN: In the middle of --

7 CHAIRMAN ULMER: Yeah, how dangerous is that for  
8 other people walking around and kids that may come into  
9 a strip center?

10 MR. STEWART: I have some letters here from all  
11 of his neighbors here in the strip center --

12 MR. ELIAS: That is next to me --

13 MR. STEWART: -- that I'd like to submit to you  
14 guys.

15 CHAIRMAN ULMER: Absolutely. Do your letters  
16 depict that the -- that his neighbors are happy with  
17 the --

18 MR. STEWART: Yes.

19 CHAIRMAN ULMER: They're thrilled about cars  
20 being jacked up in the parking lot with a jack stand  
21 underneath them?

22 MR. ELIAS: I don't have no problem. The same  
23 church next to me.

24 MR. STEWART: May I read those into the record  
25 or --

1           CHAIRMAN ULMER: You can pass them around, but  
2 we'll certainly make sure that a copy is available for  
3 the record.

4           MR. STEWART: Sure. Thank you.

5           OFFICER VAUGHN: Yeah, nobody's -- nobody's  
6 doubting his repair ability. That's not the issue. The  
7 issue is the violations that he's, you know, --

8           MR. ALLAHAM: Right.

9           OFFICER VAUGHN: -- clearly committing. He does  
10 have a good flow of business there, and he does try to  
11 do good work on the cars that he -- that he has there.  
12 He just has no space, and he's just committing these  
13 violations. Nobody's saying that he's not a good person  
14 or anything like that. That's not the issue. You know,  
15 so --

16          MR. ALLAHAM: What's the illegal dumping of  
17 hazardous waste about?

18          OFFICER VAUGHN: Well, that was one of the photos  
19 that I saw when they washed down -- that washed down the  
20 sidewalk or whatever. They didn't like dry sweep it and  
21 pick it up and dispose of it. It's running into the  
22 drain.

23          MR. ALLAHAM: Okay.

24          MS. RICHARDSON: Yeah, that's -- that is a real  
25 big no-no.

1 MR. ALLAHAM: See, there are some things there is  
2 no excuse. I mean I can see the excuse of not having  
3 enough room and -- but there is no excuse for not  
4 maintaining records of all the vehicles.

5 MS. RICHARDSON: Yeah.

6 MR. ALLAHAM: There is no excuse for that illegal  
7 dumping. There is no excuse for no dikes. Garbage,  
8 there is no excuse for that. Or the auto parts on the  
9 ground, no excuse for that.

10 I mean there is a lot of things. I mean if you  
11 have like one or two things on here, then we can see  
12 your problem, but there is a lot of other stuff, and we  
13 don't see an improvement from the previous inspections.

14 MR. STEWART: I think that --

15 MS. RICHARDSON: From what I --

16 MR. STEWART: I'm sorry, I didn't mean to  
17 interrupt.

18 MR. ALLAHAM: You know, if we go to 2013,  
19 10-16-13, he had like only three violations.

20 MR. STEWART: I think Mr. Eid is going to see  
21 this as a kind of a come to Jesus moment, if you will,  
22 where, you know, I think that he realizes the importance  
23 of this, and that's why he's purchased the land and why  
24 he's trying to have, you know, a facility where he can  
25 have the proper fence all the way around it and have,

1 you know, the cars where he can help people out. I mean  
2 it's not the most wealthy area of town. This is where  
3 his shop is located, and he does help people and work  
4 with people, you know, when they can't pay and things  
5 like that.

6 He's a good guy and a good mechanic. I  
7 understand, definitely, that he's got to abide by every  
8 regulation that the City of Houston has. We can't have,  
9 you know, shop owners that, you know, don't. I realize  
10 that. That's the point of this board and that's the  
11 point of the regulations.

12 I think that having spoken to this body and maybe  
13 working closer hand in hand over the next -- you know,  
14 if you were willing to give him a 30-day continuance  
15 here, you know, working hand in hand with the inspectors  
16 and, you know, with Officer Vaughn here and Sergeant  
17 Clark, I think that he can correct these deficiencies.  
18 I know he's trying to. I genuinely believe, after  
19 having conversations with Mr. Eid, that he just honestly  
20 doesn't understand certain things that maybe need to be  
21 done.

22 When we talked about the diking, I mean he  
23 testified, you know, he thought that, you know, it was  
24 supposed to be there. He had it under there. And then  
25 somebody said oh, this is a problem and take it off, and

1 then he took it off.

2 So I mean I think that most of this could be  
3 pretty easily rectified except for the sheer number of  
4 cars. And I think even that, you know, working with  
5 your customers, you should be able to get that resolved  
6 in that sort of a time frame to where all of the cars  
7 are -- you know, where we don't have a bunch of cars  
8 there.

9 MR. WANG: We respect what you say, but this  
10 board, way so, so many shop, when the police  
11 representative City of Houston come to shop, they don't  
12 care until the day the police sends them to the board.  
13 They say oh, license going to suspend. Then they decide  
14 to do something. In the last few years, they ignore the  
15 police. They ignore the City of Houston. This is a  
16 first problem we have here.

17 The second is I know you say he build -- he  
18 bought some land or whatever, but even the permit is not  
19 approved yet.

20 MR. STEWART: Right.

21 MR. WANG: Okay? After the permit approval, you  
22 build a commercial building. By my personal experience,  
23 we have other real estate issues, too. Take a minimum  
24 one year to build a good commercial business. So how  
25 much more day he did stay there to constantly violation?

1           Especially the third thing is Officer Vaughn and  
2 the sergeant made clearly that location by that  
3 business, there's no way to pass. In the beginning he  
4 choose the wrong location to start this business. Okay?  
5 Too many vehicles. And he give customer a payment plan  
6 while he extend it. So vehicles stay there over 30  
7 days, over six months or even over a year. So there's  
8 no way that the location can pass City ordinance.

9           Only thing is, is like you were saying about  
10 people help him, better location, everything. So he did  
11 make his business qualify prior to business. If he  
12 stayed there, Officer Vaughn go there, still don't pass,  
13 still don't pass, still don't pass or pass one day and  
14 automatic come back, don't pass. He still going to come  
15 back here. There the location do not qualify to open  
16 this business, do not qualify the way he run business,  
17 unless all the customer come that don't want to pay, he  
18 tell them go home right away.

19           According to this, I say he only can take two  
20 cars, three cars a day. You know, the picture you make,  
21 only this picture is clear, is bright. Another picture,  
22 it's dark. But, you see, Officer Vaughn he made  
23 pictures all clear, all clear. So what's the  
24 difference?

25           On this, to us, we don't know how long you can

1 really solve this problem. We don't know 30 days. You  
2 maybe on 30 days then day -- then one day you can make  
3 it pass, but after one week everything come back here.  
4 Your location cannot took so many car, cannot give a  
5 customer one months or two months or three months  
6 payment, something like this. He just can't to run  
7 business in that location. That cause his problem.

8 MR. STEWART: Well, I think that the only real  
9 deficiency, and I guess the crucial deficiency with the  
10 location, is just with the sheer number of cars that he  
11 can have there and have -- you know, and abide by the  
12 30-day deal. I mean that's the main problem.

13 OFFICER VAUGHN: And the work order thing. I  
14 mean he cleaned up around there, but --

15 MR. STEWART: Right.

16 OFFICER VAUGHN: -- clearly from some of the  
17 first pictures that I took that are in the exhibit, he  
18 had parts everywhere, cars everywhere, expired  
19 registration, no plate, expired inspection, I mean  
20 work -- I mean with no work orders that it was just word  
21 of mouth that he did with somebody who brought their car  
22 in. So vehicles, work orders, I mean he needs to  
23 document what he's doing.

24 MR. STEWART: Right.

25 OFFICER VAUGHN: I mean that's -- that's the



1 requirements, so --

2 MR. STEWART: And, again, if you're willing to  
3 give us, you know, the 30 days, at least, to get his  
4 house in order there and do what he needs to do to maybe  
5 even get somebody in the office to run all of that and  
6 handle just that aspect of it, I think that that  
7 would --

8 MR. WANG: The vehicles stay there over 30 days,  
9 what are you going to do?

10 MR. STEWART: Well, I mean I guess he'll have to  
11 give vehicles back to people.

12 MS. CALABRESE: Why don't you let him tell us --

13 MR. STEWART: Sure.

14 MS. CALABRESE: -- what he's going to do, rather  
15 than --

16 MR. STEWART: Sure.

17 MS. CALABRESE: -- what you think may happen?

18 MR. ELIAS: I cannot do it 30 days. I cannot put  
19 fence in -- in the property.

20 OFFICER VAUGHN: It's not his -- he's leasing the  
21 place. It's not his property, so I mean putting a fence  
22 up, how can you say you're going to do that?

23 MR. ELIAS: For the trash, it's not my trash.

24 OFFICER VAUGHN: We never discussed that.

25 MR. ELIAS: Meat is not mine.

1 MR. ALLAHAM: Maybe you're not --

2 CHAIRMAN ULMER: Yeah.

3 MR. ALLAHAM: -- taking this --

4 CHAIRMAN ULMER: They're not --

5 MR. ELIAS: The car coming in through shop for a  
6 dealer by an auction, no inspection sticker, no  
7 registration in it, what to do with me? I fix the car  
8 and call them. The car ready. The inspection sticker  
9 in it and gone. What I can do if the car in the shop  
10 don't have registration, inspection sticker?

11 MR. ALLAHAM: Why don't you have work order on  
12 this car?

13 CHAIRMAN ULMER: Well, I don't think you've been  
14 cited for --

15 MR. ELIAS: I do have a work order, but --

16 CHAIRMAN ULMER: -- not having registration on  
17 vehicles.

18 MR. ELIAS: I do have a work order. It's not  
19 filled out complete. And now they're just telling me  
20 about it. Sergeant come into the shop. He take picture  
21 in it. He tell me this is good now, but I need a little  
22 bit put the VIN number in the -- in the work order.  
23 This is why I started doing it like this. That's it.

24 OFFICER VAUGHN: So over six months of going  
25 there, inspections and stuff, he constantly tells us I'm

1 buying some property, I'm going to be moving. You know,  
2 so he's been talking about it, but he's never done  
3 anything about it. And then just now when we told him  
4 he's going to come to the board, we're going to bring  
5 him to the board, he started to clean up a little bit,  
6 but he's been talking about moving for at least six  
7 months.

8 And yesterday when I went out there he even said  
9 that -- he and his wife were saying that they were  
10 having some problems securing financing and stuff to get  
11 everything they needed, but they were planning to move.  
12 So that's okay, but in the meantime I explained that you  
13 can't constantly be in violation for months or a year at  
14 a time just because you're going to move and you're  
15 going to build a new building, you know.

16 MS. RICHARDSON: My concern is, is the -- I'm  
17 sorry, I was late today. Some of the vehicles have been  
18 out there for over 30 days. What is the oldest vehicle  
19 that you have on your property? I mean property that's  
20 been there for over 30 days. You know, are we looking  
21 at 60, 90 days that they have been on the property?

22 MR. ELIAS: Some car I have three months.

23 MS. RICHARDSON: What?

24 MR. ELIAS: Three months. A brand new car.

25 MS. RICHARDSON: A few months. Okay.

1           MR. ELIAS: I have like four car is mine. I'm  
2 going to sell to Pick A Parts.

3           MS. RICHARDSON: What you need to do is under  
4 Texas Property Code -- I can't remember the -- that  
5 section -- I don't know if you have it on your work  
6 order or not -- you need to make sure that your  
7 customers understand that they cannot keep that vehicle  
8 over 70 -- over 30 days, and you have to send them a  
9 certified letter, and you can take possession of that  
10 vehicle.

11           And I feel like that your customers are taking  
12 advantage of you. They're dumping their problem on you,  
13 and then it's becoming your problem for the City. And  
14 you cannot allow this to happen.

15           We turn away work -- I sit on three-quarters of  
16 an acre, you know, and I turn away good work, because I  
17 know, No. 1, I can't get to it. No. 2, I don't have the  
18 room.

19           So you're not -- I know that you want to take  
20 care of your customer, but your customer is not taking  
21 care of you. And after -- and you need to make sure  
22 that they understand after 30 days, if they have not  
23 picked up that vehicle, you can -- you can sell it.

24           SGT. GRIFFIN: Another problem you're going to  
25 run into if you don't keep adequate records, it will

1 make it a lot more difficult for you to secure a  
2 mechanic's lien on those vehicles if they don't come  
3 back.

4 MS. RICHARDSON: That's right.

5 SGT. GRIFFIN: Last year this board heard a case  
6 of a guy who did something similar to what you did, he  
7 would help out people but never did work orders. Those  
8 people never came to get their cars. He had a lot full  
9 of cars for which he had no paperwork and no legal way  
10 to get a mechanic's lien on it.

11 MS. RICHARDSON: And he couldn't sell them.

12 SGT. GRIFFIN: And he's not allowed to sell them.

13 MR. ELIAS: I send -- I send a lot of car to the  
14 storage lot. You know, like a couple of months ago, I  
15 send almost 10, 15 cars --

16 SGT. GRIFFIN: Okay. You need to stop right  
17 there.

18 MS. RICHARDSON: Yeah, you need to stop right  
19 there.

20 CHAIRMAN ULMER: Don't go any further, because  
21 what you're talking about is illegal. You can't do  
22 that. So don't even -- you can't sell cars to a storage  
23 lot. So don't go there.

24 MR. ELIAS: I no sell a car to the storage --

25 MR. STEWART: No, no, I think he said --

1 MR. ELIAS: I send it to the storage, which would  
2 be the auction.

3 CHAIRMAN ULMER: Send it. Okay. We all thought  
4 you said you sell them --

5 MR. ELIAS: No, no, I don't sell no car, no, no,  
6 no.

7 MS. RICHARDSON: Yeah, you send them to --

8 MR. ELIAS: I don't do that.

9 MS. RICHARDSON: Yeah, you send them to the --

10 MR. ELIAS: Only to the storage.

11 MS. RICHARDSON: You send them to the storage  
12 lot. Then what do you do? Do you pay that storage fee?

13 MR. ELIAS: Huh?

14 MR. STEWART: Are you paying the fee?

15 MS. RICHARDSON: Are you paying that storage fee  
16 when you send --

17 CHAIRMAN ULMER: No, he's having them towed --

18 MR. ELIAS: No, ma'am, I never pay nothing.

19 MS. RICHARDSON: Oh, he's having them towed.

20 MR. ELIAS: What I do, I call wrecker truck, and  
21 you pull the ticket, and you call it in to HPD --

22 CHAIRMAN ULMER: Okay.

23 MR. ELIAS: -- and for private property --

24 CHAIRMAN ULMER: So you're having them towed away  
25 from your property?

1 MR. ELIAS: Yes, sir.

2 CHAIRMAN ULMER: And that is the proper action  
3 that you need to take. I think really what we're  
4 talking about here is there are a lot of things that you  
5 can take care of, and some of them are being a better  
6 neighbor. I mean these pictures clearly depict a lot of  
7 trash, parts and things like that that make you a very  
8 bad neighbor in that strip center.

9 The other part is the records keeping. And even  
10 in your attorney's presentation here it says you're  
11 doing a better job of keeping records. It doesn't -- it  
12 says you have become better. It doesn't say you're  
13 keeping good records.

14 Let me tell you something. It's easy to keep  
15 good records. You all of a sudden begin to keep records  
16 on everything. So you don't allow someone to drop a car  
17 off until you have filled out a work order, they sign  
18 it, you have all of the information off the vehicle.  
19 That's when you allow them to leave the car.

20 There are specific reasons that this is in place.  
21 If the police department comes in and runs all the VIN  
22 numbers on every car in your place, and some of them are  
23 stolen and you don't have a work order, then who's the  
24 thief? You're the thief. You don't have a work order  
25 to show it came from somewhere else.

1           This is a protection of you. So you must have  
2 these work orders in place. You must clean up your  
3 facility. If that officer comes at noontime, and I  
4 heard you testify that he came at noon and you hadn't  
5 had a chance to clean up yet, the pictures that we're  
6 seeing are not pictures of things that happened from  
7 8 a.m. to noon.

8           MR. ELIAS: It's 1 o'clock.

9           CHAIRMAN ULMER: Their pictures -- no.

10          MR. ELIAS: That's only one time. He came in 1  
11 o'clock.

12          CHAIRMAN ULMER: Okay. But I'm saying these  
13 photos do not depict something that got dirty between  
14 8 a.m. and noon. They depict trash that's been there  
15 for a long time. This stuff didn't just get here in a  
16 few hours.

17          MS. RICHARDSON: And there's --

18          CHAIRMAN ULMER: I mean the photos are very  
19 obvious that -- that photo right there, if I had another  
20 business in that strip center, I would move. I would  
21 leave. That's a -- that's a picture that I would be  
22 ashamed to know that the front of my facility looked  
23 like this.

24          MR. ELIAS: Which picture is this?

25          MS. RICHARDSON: There's two other instances --



1 CHAIRMAN ULMER: It's in your packet. It's in  
2 your packet.

3 OFFICER VAUGHN: Yeah, it's in there.

4 MS. RICHARDSON: There's two other entities that  
5 could walk on your premises, the EPA and the fire  
6 department.

7 MR. ELIAS: You talk about this -- this picture?

8 MR. ALLAHAM: I'm going to have a motion to give  
9 him 30 days.

10 CHAIRMAN ULMER: Okay.

11 MR. ALLAHAM: And if he doesn't pass inspection  
12 in 30 days, I'm sorry, we're going to have to take his  
13 license.

14 CHAIRMAN ULMER: Well, let's -- let's sum up. We  
15 have someone who has a motion ready for the board.  
16 Okay? So one of the board members has a motion. I  
17 think you've got an idea of what that motion is. Is  
18 there anything that you would like to add additionally  
19 to get it on the record right now before the board makes  
20 that motion?

21 MR. STEWART: I think -- can we have Ron speak?  
22 I know he's here just as to the general state of the  
23 place and --

24 CHAIRMAN ULMER: Sure, could we --

25 MR. STEWART: -- that it's improving.

1 CHAIRMAN ULMER: -- get you to state your name?

2 MR. GOSSER: Yes, Ronald Gosser.

3 CHAIRMAN ULMER: Okay.

4 MR. GOSSER: I own a wrecker service, Gosser's  
5 Wrecker Service.

6 CHAIRMAN ULMER: Okay.

7 MR. GOSSER: Every time Eid comes to me saying  
8 that he's had citations or warnings, he'll tell me what  
9 cars need to be moved, or he'll get with the owner of  
10 the vehicle and either they come pick it up or have it  
11 towed to their house at their expense. Then I'll do so.  
12 If he can't get ahold of them, he'll tell me I've  
13 already sent them letters on this, I've tried  
14 communicating with the owners on this vehicle, this  
15 vehicle, and he'll send them to the storage lot as a  
16 private property tow.

17 And he was at one point possibly wrong in a lot  
18 of things that you're stating he's done, but I have seen  
19 improvements to where his shop is a very clean shop  
20 compared to what it used to be, but he doesn't try to  
21 keep vehicles there longer than necessary. He'll call  
22 me to move them around or -- and --

23 CHAIRMAN ULMER: Let me just ask you one  
24 question.

25 MR. GOSSER: Sure.

1           CHAIRMAN ULMER: I'm looking at pictures here  
2 that were provided by your attorney and Mr. Elias, and  
3 I'm looking at the entrances to this parking lot. To  
4 make absolutely sure, I know you guys are doing some  
5 private property towing from here. There are no signage  
6 at these entrances --

7           MR. GOSSER: No.

8           CHAIRMAN ULMER: -- to state that the cars can be  
9 towed off.

10          MR. GOSSER: I just go by his consensual tow.

11          CHAIRMAN ULMER: Right, but you can't do that.

12          MR. GOSSER: Okay.

13          CHAIRMAN ULMER: That's a private property tow.  
14 Under State law, the signage has to be in place, --

15          MR. GOSSER: Okay.

16          CHAIRMAN ULMER: -- because this is a piece of  
17 property that has multiple businesses parking there. So  
18 there has to be signage at every single entrance.

19          MR. GOSSER: Okay.

20          CHAIRMAN ULMER: The signs have to meet State  
21 law. They have to have the universal towing symbol on  
22 them. They have to have a number where the consumer can  
23 reach someone 24 hours a day. Even if they're cars that  
24 have been left with him, makes no difference. They  
25 cannot be removed from this facility until they're

1 removed -- until proper notice is placed -- those signs  
2 must be up 24 hours before that towing can take place.  
3 There's a minimum and a maximum height they can be  
4 placed at. And every single entrance from any roadway  
5 has to be signed. Okay?

6 MR. GOSSER: Okay.

7 CHAIRMAN ULMER: So that signage needs to be put  
8 in place just to keep you from violating the law. He  
9 would as well be violating the law. Even if he signed  
10 the invoice, he can't -- he can't forego someone's  
11 rights --

12 MR. GOSSER: Okay.

13 CHAIRMAN ULMER: -- having their car towed.  
14 Okay? So let's make sure that you take care of that. I  
15 appreciate the fact that you're there to help him and  
16 move some of these cars, but the sheer number of cars,  
17 the way they're parked, they're not even parked in  
18 parking spaces in many cases here, I mean that's what's  
19 really creating the problems here.

20 MR. GOSSER: And I know the majority of the  
21 problems are the issue of the vehicles in the front. I  
22 mean he has had me move them and just set them in the  
23 back where it's fenced in.

24 CHAIRMAN ULMER: Okay.

25 MR. GOSSER: But, again, he doesn't have

1 authority to fence in certain locations and --

2 MS. PALMER: Officer Vaughn, you were going to  
3 say something?

4 CHAIRMAN ULMER: I'm sorry.

5 OFFICER VAUGHN: He just said moving the vehicles  
6 around. That goes back to the 30-day thing. If you  
7 look at some of those photos that we first took that we  
8 documented in Exhibit H, there is cars across the  
9 street, there's ambulances that were on the street that  
10 have moved down in the parking lot, still -- they're  
11 still his, you know, concern.

12 MR. ALLAHAM: So he just kind of --

13 OFFICER VAUGHN: He's just like shuffling them  
14 like he's playing dominoes or something. Those vehicles  
15 have still been over there 90, 120 days, they've been  
16 there forever, because I'm taking pictures of them every  
17 time I go out there. They're just not in the same spot.

18 MR. ALLAHAM: Well, I mean --

19 MR. WANG: So there's no way he can solve this  
20 problem unless he move?

21 OFFICER VAUGHN: Unless he moves or document then  
22 tow all those vehicles that he's -- he's had for six  
23 months or more.

24 MR. ALLAHAM: I'm proposing he has 30 days, and I  
25 don't care how he cleans it up --

1 CHAIRMAN ULMER: Well, let's make sure they've  
2 got their last before you make that motion.

3 Mr. Elias, do you understand what he's saying  
4 here?

5 MR. ELIAS: Yes, I understand. Yes, that they  
6 come and look at it. It's not my car over there. You  
7 want me to move it?

8 CHAIRMAN ULMER: Let me ask you a question.

9 MR. ELIAS: Yes, sir.

10 CHAIRMAN ULMER: Go to -- look at your packet and  
11 go to Exhibit I, Exhibit I.

12 MR. ELIAS: Okay.

13 CHAIRMAN ULMER: Do you see that photo with all  
14 those ambulances and stuff parked up on the street and  
15 the hood up on the van?

16 MR. ELIAS: It's already moved already. Nothing  
17 in the street.

18 CHAIRMAN ULMER: But are those your vehicles that  
19 you were working on?

20 MR. ELIAS: This vehicle is running. I park it  
21 over there. I park it over there, yes.

22 CHAIRMAN ULMER: Okay. So you're parking  
23 vehicles on the street that you're working on?

24 MR. STEWART: He's not --

25 MR. ELIAS: I don't park it. The customer park

1 it over there and I move it.

2 CHAIRMAN ULMER: Well, who put the hood up on the  
3 van then? The customer put the --

4 MR. ELIAS: Which one?

5 CHAIRMAN ULMER: The hood's up on the van, the  
6 very first van.

7 MR. ELIAS: I want to jump it to start it to move  
8 it on the side.

9 CHAIRMAN ULMER: So you were working on cars on  
10 the street that are parked on the street, right?

11 MS. RICHARDSON: You cannot do that.

12 MS. PALMER: Yes.

13 MS. RICHARDSON: You cannot do that.

14 MR. ELIAS: I jump it. Is it working?

15 CHAIRMAN ULMER: But are those all your cars that  
16 you're working on? That's the question I'm asking.

17 MR. ELIAS: The van -- yes, call it yes, yes.

18 CHAIRMAN ULMER: Yes. Okay. So they're all  
19 their cars that you're working on?

20 MR. ELIAS: Yes, sir.

21 CHAIRMAN ULMER: You can't park those cars on the  
22 street.

23 MR. ELIAS: I move all of them.

24 CHAIRMAN ULMER: Okay.

25 MR. ELIAS: I wish the officer had tell me I need

1 to no move -- no leave car in the street.

2 OFFICER VAUGHN: I have done that.

3 MR. ELIAS: You know what he did?

4 OFFICER VAUGHN: I have done that.

5 CHAIRMAN ULMER: Yeah.

6 MR. ELIAS: He did write the violation. And I  
7 tell him I don't work in the street, Officer. I move  
8 it. It's my car. I'll move it.

9 MS. RICHARDSON: You can't park it on the street.  
10 You cannot park it on the street.

11 CHAIRMAN ULMER: Mr. Elias, --

12 MR. STEWART: I move all of them now.

13 CHAIRMAN ULMER: -- the officer told you --

14 MS. RICHARDSON: You can't park it on the street.

15 CHAIRMAN ULMER: When he noticed you and he gave  
16 you a citation, that's a notice.

17 MR. ELIAS: I did move all of them now. It's  
18 nothing in the street.

19 MR. STEWART: I had a conversation with Eid about  
20 this, and he's no longer parking cars in the street.

21 CHAIRMAN ULMER: Okay.

22 MR. ELIAS: I never be -- put one car in the  
23 street.

24 CHAIRMAN ULMER: And, Mr. Elias, what I want you  
25 to understand, these officers have eight documented



1 inspections they've gone out to your facility. Eight.  
2 The oldest one is in 2012, April of 2012. That's two  
3 years. Okay? That they've been talking to you, writing  
4 you citations, violations, reports, and every one of  
5 them has been bad. You haven't had a good one yet. Two  
6 years worth of reports.

7 And you now are still sitting here telling me  
8 that you don't have any problems and that you're filling  
9 out most of your invoices and things like that. That's  
10 not the answer here. The answer is to correct all of  
11 the problems, not a couple, not some today and some  
12 tomorrow. You've had two years to get all this stuff  
13 fixed.

14 At this point in time, your license is in  
15 jeopardy. If this board takes your license, you leave  
16 here not being able to take in any more work, not one  
17 more job, complete only the jobs on your premises and  
18 possibly face arrest if you continue to do that.

19 So this is a pretty serious matter, and I don't  
20 think you've taken it too seriously so far based on all  
21 of these inspections and them getting worse, not better.  
22 Maybe now you're taking it serious, but prior to this it  
23 doesn't appear that you've taken it too seriously.  
24 Would that be a fair assessment? Would that be a fair  
25 assessment of what's happened so far?

1 MR. ELIAS: I guess, yeah.

2 CHAIRMAN ULMER: Okay. With that, if you guys  
3 don't have anything else to add, I think we have a  
4 motion from the board that is possibly in line with what  
5 you're asking for. Okay?

6 MR. ELIAS: Now what I'm doing --

7 MR. STEWART: Okay. Just wait, just wait.

8 CHAIRMAN ULMER: Okay. Mr. Allaham, did you have  
9 a motion?

10 MR. ALLAHAM: Yes, sir, I would have a motion to  
11 give him 30 days to fix all those problems, and in 30  
12 days if he doesn't fix them, he's going to loose his  
13 license.

14 CHAIRMAN ULMER: So, in other days, 30 -- in  
15 other words, 30 days for complete compliance with an  
16 inspection report and is satisfactory?

17 MR. ALLAHAM: That's correct.

18 CHAIRMAN ULMER: Okay. Do you understand the  
19 motion that's been made, that --

20 MR. ELIAS: Yes, sir.

21 CHAIRMAN ULMER: -- essentially what would  
22 happen?

23 Okay. Do I have a second for that motion?

24 MS. RICHARDSON: I'll second that motion.

25 CHAIRMAN ULMER: I have a second for that motion.

1 All in favor of that motion?

2 MS. RICHARDSON: Aye.

3 [All members present raised their hands except  
4 Mr. Wang]

5 CHAIRMAN ULMER: Is anyone opposed to that  
6 motion?

7 [Mr. Wang raised his hand]

8 CHAIRMAN ULMER: Okay.

9 MR. STEWART: We have one opposing to that  
10 motion. Motion carries.

11 Okay. Mr. Elias, what's happened is you've been  
12 given 30 days to correct all these problems. Okay? I  
13 understand you've done some things and you've made some  
14 progress, but you have been given 30 days, and you will  
15 get another notice, you'll be back before the board next  
16 month. Okay? And when you come back before the board,  
17 let me make this very clear, provide some documentation  
18 that you've corrected all these problems of your own.

19 The officer is going to provide documentation of  
20 whatever's there. He's going to have photos. He's  
21 going to have an inspection report. He's going to have  
22 all those things that are going to take place before you  
23 come back to this board.

24 The motion was total compliance. So you have to  
25 have complete compliance with everything that's wrong

1 there, and you have to have a satisfactory inspection  
2 report. Okay? Otherwise, the board's going to  
3 certainly frown on the fact that you haven't met the  
4 requirements of the motion that was made today. Okay?  
5 You understand that?

6 MR. ELIAS: Yes.

7 CHAIRMAN ULMER: Okay.

8 MR. ELIAS: What I can do about a fence?

9 CHAIRMAN ULMER: Well, if you don't keep vehicles  
10 over 30 days, you don't need a fence. Your correction  
11 is not to keep vehicles over 30 days.

12 MR. ALLAHAM: Get rid of those cars.

13 MR. STEWART: May I ask the board a couple of  
14 questions?

15 CHAIRMAN ULMER: Sure.

16 MR. STEWART: Just to assist him in getting in  
17 compliance. Regarding this fence, the fence that's  
18 needed, if he's going to have these vehicles, is a chain  
19 link fence going to be sufficient?

20 OFFICER VAUGHN: No.

21 MS. RICHARDSON: No.

22 CHAIRMAN ULMER: No. A chain link fence does not  
23 meet the requirement. Let me suggest that you go to  
24 Chapter 8 of City of Houston Code of Ordinance.

25 MR. STEWART: Sure. Now, I've read it. It's a

1 little confusing and ambiguous.

2 CHAIRMAN ULMER: It is a solid fence, though. It  
3 gives a complete description of a solid fence.

4 MR. ALLAHAM: See how they put that solid  
5 fence --

6 MR. STEWART: Okay.

7 CHAIRMAN ULMER: It gives a very complete  
8 description. So a chain link fence with wooden slats or  
9 metal slats in it completely obscuring the view is  
10 acceptable.

11 MR. STEWART: Okay.

12 CHAIRMAN ULMER: A solid metal fence is  
13 acceptable. A solid wood fence is acceptable. It must  
14 be in good repair, good -- I mean it's a long, broad  
15 section, and it gives you a whole lot of requirements,  
16 and it's very, very clear.

17 MR. STEWART: And as far as -- I mean, obviously,  
18 you know, he doesn't own the property. He has a  
19 landlord. But I mean I guess he's going to have to get  
20 out there and mow it himself and square all that away.

21 CHAIRMAN ULMER: These requirements are there  
22 based on good housekeeping, --

23 MR. STEWART: Right.

24 CHAIRMAN ULMER: -- you know, neighborhood  
25 protection issues and things of that nature.

1 MR. STEWART: Right.

2 CHAIRMAN ULMER: If it's his business, and he's  
3 the one doing business there, he's the one responsible  
4 for these things. It's just like a fire extinguisher.  
5 It's not the landlord's responsibility to put a fire  
6 extinguisher there. These are City ordinances that must  
7 be met.

8 MS. RICHARDSON: I suggest that the wrecker  
9 driver, since you have a good working relationship with  
10 him and know how he does all these vehicles, I think  
11 maybe you should go through his lot with him and see  
12 what vehicles has been there and get them off the  
13 property.

14 MS. PALMER: And you need to pay closer attention  
15 to what Officer Vaughn is instructing you to do.

16 MR. ALLAHAM: That's really the trick. If you  
17 work with him and get that clear --

18 MS. PALMER: Right.

19 MR. ALLAHAM: -- as an inspection, you're good.

20 MR. STEWART: And I'll assist in that process, as  
21 well. I mean I'll try and help facilitate  
22 communication --

23 MS. PALMER: That would be great.

24 MR. STEWART: -- with Officer Vaughn and try and  
25 bring him into compliance.

1           CHAIRMAN ULMER: And, please, you know, document  
2 the counteraction that's going on here, the things that  
3 are being done to correct these issues. Chapter 8 is --  
4 it is a City ordinance, it is boring reading, but it's  
5 not that long. You can read all of chapter 8 in a short  
6 period of time, and it gives you all the overview of  
7 everything that we're talking about.

8           You know, customers' cars being held over 30 days  
9 is not acceptable. And really that's there because they  
10 don't want storage lots to become in place of an  
11 automotive repair facility. That's really what it's  
12 there for.

13           MS. RICHARDSON: And you need to get a stamp or  
14 something put on each work order and get that customer  
15 to sign it, vehicles will be towed after 30 days. That  
16 is to protect you from a lawsuit.

17           MS. PALMER: And these are put in place for the  
18 duration that you're at this location. This is not just  
19 a one time --

20           CHAIRMAN ULMER: It looks like he has a  
21 commercial invoice. It looks appropriate.

22           MS. RICHARDSON: Do you have an invoice with you?

23           MR. ELIAS: Yes.

24           MS. RICHARDSON: I would like to look at that  
25 invoice.

1 MR. GOSSER: Is there anything he can do with the  
2 property he's already purchased towards helping him in  
3 any way?

4 OFFICER VAUGHN: Read chapter 8.

5 CHAIRMAN ULMER: Yeah, chapter 8 gives you a  
6 whole bunch of specifics.

7 MS. CALABRESE: These guys are always willing to  
8 answer questions.

9 CHAIRMAN ULMER: Right.

10 MS. CALABRESE: They've told him a million times.  
11 So they'll time him a million more.

12 CHAIRMAN ULMER: We've got a motion. We've had  
13 that motion pass.

14 MS. RICHARDSON: Okay.

15 CHAIRMAN ULMER: We need to move on.

16 MS. RICHARDSON: Okay. Right here you have Texas  
17 Property Code 70.001. You have that on your work order.  
18 So you get them to sign it. That is your protection.  
19 After -- but this must go out within 30 days that the  
20 vehicle is there. So you're protected right there to  
21 have that vehicle towed off.

22 CHAIRMAN ULMER: Okay. Let's give him that, the  
23 work orders, back so he's got them.

24 MS. RICHARDSON: And whatever the outcome is 30  
25 days from now, the officers will be back at some other



1 point in time. Just because they visited you this time,  
2 they might show up a year from now, they might show up  
3 two years from now, but they always keep tabs on  
4 everybody.

5 CHAIRMAN ULMER: Do I have the --

6 SGT. GRIFFIN: We don't do a letter like this  
7 for --

8 CHAIRMAN ULMER: Oh, we don't?

9 SGT. GRIFFIN: No.

10 CHAIRMAN ULMER: Okay. So, Mr. Elias, you've  
11 been given 30 days. Understand we want to make sure  
12 that you --

13 MR. ELIAS: No problem.

14 CHAIRMAN ULMER: -- completely understood what  
15 your process --

16 MR. ELIAS: I will do that. I'll buy the fence.

17 CHAIRMAN ULMER: I'm sorry?

18 MR. ELIAS: I'll buy the fence, no problem, the  
19 fence.

20 MR. STEWART: I'll talk to him. We'll work it  
21 out.

22 CHAIRMAN ULMER: Yeah, you need to speak to your  
23 attorney, because if you have cars that are kept over 30  
24 days, the fence is going to be a problem. You're not  
25 going to be able to keep any cars over 30 days if you

1 can't provide the fence.

2 Now, you don't have to have them within a fence.  
3 You can rent more space and put them inside. As long as  
4 they're not outside, that's the correction.

5 MR. ELIAS: I do have a fence in the back, but  
6 it's not complete cover. Is this --

7 MS. CALABRESE: Listen to the police officers  
8 when they tell you what you have to do.

9 MR. ELIAS: I can do that.

10 MS. CALABRESE: Talk to them. They are more than  
11 willing --

12 MR. ELIAS: So it's going to take more than 30  
13 days finish car in the back.

14 MS. CALABRESE: Sir, let's stop arguing, and  
15 let's start listening to the police officers. How about  
16 that?

17 MR. ELIAS: Okay.

18 CHAIRMAN ULMER: Okay?

19 MR. ELIAS: Okay.

20 CHAIRMAN ULMER: All right.

21 MR. STEWART: Thank y'all.

22 CHAIRMAN ULMER: Thank you.

23 -----

24

25

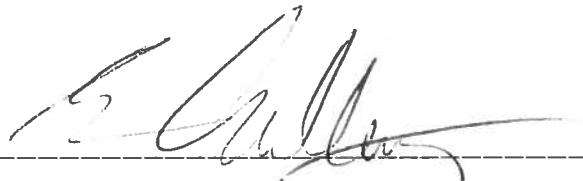
## REPORTER'S CERTIFICATION

I, Shawn Kelley, Certified Shorthand Reporter  
No. 3448 in and for the State of Texas, hereby certify  
to the following:

That the transcript of the City of Houston  
Automotive Board hearing is a true record of the City of  
Houston Automotive Board hearing.

I further certify that I am neither counsel for,  
related to, nor employed by any of the parties in the  
matter in which this proceeding was taken, and further  
that I am not financially or otherwise interested in the  
outcome of the matter.

Certified to by me this 4<sup>th</sup> day of September,  
2014.



Shawn Kelley, Texas CSR No. 3448  
Expiration Date: 12-31-15  
Nell McCallum & Associates  
Firm Registration No. 243  
5300 Memorial, Suite 600  
Houston, Texas 77007  
(713) 861-0203

## LAWYERS NOTES

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CITY OF HOUSTON AUTOMOTIVE BOARD HEARING

IN RE: AUTOMOTIVE REPAIR FACILITY  
REPAIR LICENSE #101835  
FOR EID CAR CARE  
LOCATED AT 9650 S. KIRKWOOD DRIVE, A-1

July 8, 2014  
9:18 a.m. to 10:16 a.m.  
1002 Washington Avenue, Basement Level  
Houston, Texas 77002

Board Members Present:

- Ken Ulmer, Chairman
- Timothy Straney
- Owen Wang
- Erma Palmer
- Shelly Richardson
- B.K. Sanchez



1 CHAIRMAN ULMER: All right. So our first person  
2 is Elias Eid. Before we go any further, just I've kind  
3 of skipped a whole step, but let me just explain to  
4 everybody kind of what goes on and how the hearing  
5 works, how the process works. If anybody has any  
6 questions, please feel free to ask them after I get done  
7 explaining all this to you.

8 No. 1, we have a couple of different types of  
9 hearings here today, typically three. So we'll have  
10 hearings for businesses, we'll have hearings for tow  
11 truck drivers, operators who have been denied, and we'll  
12 have hearings for salesmen who have been denied.

13 In any case, you're generally here because of  
14 some type of a problem. Okay? For some reason you've  
15 been denied or your license is up, you have some  
16 problems with your business, and you're here for those  
17 hearings.

18 A couple of things that I want you to understand.  
19 No. 1, we're here to hear the case. That's what we're  
20 here for. We're in business. Everyone on this board,  
21 with the exception of one member that's a public member,  
22 is here because we're in this industry in some shape,  
23 form or fashion, some type of industry that relates to  
24 the automotive business.

25 We do this not for fame and fortune, I can assure

1 you. We do it because we care about the business  
2 industry, the automotive industry, and we care about the  
3 city of Houston and how business is conducted here. We  
4 want the city of Houston to have the best  
5 automotive-related industry and business in the world,  
6 really.

7 So we're not here to criticize you. We're not  
8 here to penalize you. We're here to make sure that we  
9 have the best businesses ever. So that being said, we  
10 want you to get your entire case out here in front of  
11 us. So if you don't tell us, we don't know. We can  
12 only hear what you tell us and what you explain to us as  
13 the scenario and the situation.

14 The thing that goes along with that is we want  
15 your honesty. Please don't get up here and waste our  
16 time. If you're here because of some type of a  
17 situation that caused your license to get denied, we are  
18 going to be looking at the case. We're going to be  
19 looking at the witness statements. We're going to be  
20 looking at what the officer wrote. We're going to be  
21 looking at the entire thing.

22 So don't make it more colorful than it is. Okay?  
23 It is what it is. We're reading it. You look very bad  
24 when you try to make it look better than it really is.  
25 It's much, much better for you if you just get up there

1 and be honest, I promise you.

2 I say this at every single board meeting. Every  
3 single meeting someone gets up there and does it.  
4 Please, just be frank, be forthcoming. The facts are  
5 going to come out, anyway, because we're going to talk  
6 about it.

7 If there is something that you want to get on  
8 record, make absolutely sure that you do get that on  
9 record.

10 If you are a business here today, as we have a  
11 court reporter here, you will be required to have a  
12 court reporter in order to appeal the decision of the  
13 board if you don't like the decision of the board.

14 If you don't have a court reporter, you can't  
15 appeal the decision, because it's appealed based on  
16 exactly what was presented here today, not any new  
17 evidence. So that's why it's very important for you to  
18 present everything that you want to present in your  
19 case.

20 If you are a salesman or you are a driver that  
21 has a hearing here today, it will be audio and video  
22 recorded, and that will be your appeal process. But,  
23 there again, it's exactly the same, it's exactly what's  
24 on the audio and video is what's being appealed. So you  
25 won't have an opportunity to come back and say well, I



1 forgot to tell this, I forgot to say this part.

2 So please be frank about it and get everything  
3 out that you want to get out, make absolutely sure that  
4 we've heard all of the case, because we want to make a  
5 good decision. We certainly don't want to make a bad  
6 decision. And we can't make a good decision if we don't  
7 have all the facts in front of us.

8 So everyone will be sworn in as you come up.  
9 You'll be asked to raise your right hand. The police  
10 department will swear you in. The police department  
11 will then read the case against you, why you're here,  
12 tell us exactly what's going on, and then we'll begin  
13 the proceedings based on what type of a business that  
14 you actually are.

15 If anyone has any questions about anything that's  
16 going on, feel free to ask them during the hearing or  
17 ask them right now, because we certainly want everybody  
18 to kind of understand what's going on.

19 I apologize for you people who will have to sit  
20 here through a lot of these cases. You're going to be  
21 just like us. We're going to sit here through the  
22 majority of them, and you kind of get an advantage,  
23 because you kind of get to see how things work, and you  
24 hopefully will be more frank and forward with us than  
25 some of the people are sometimes when they're here for

1 the first time ever. Okay?

2 Any questions?

3 Great. Go ahead.

4 UNIDENTIFIED SPEAKER: Mr. Chairman, I just was  
5 curious, when do they get to hear the results of that  
6 hearing?

7 CHAIRMAN ULMER: The hearing here today?

8 UNIDENTIFIED SPEAKER: Yeah.

9 CHAIRMAN ULMER: Right now, as soon as you're  
10 done.

11 UNIDENTIFIED SPEAKER: Oh, great.

12 CHAIRMAN ULMER: We will vote on each case that  
13 comes up. Unless there's a continuance or something  
14 along those lines, we vote on each case as they come up.

15 UNIDENTIFIED SPEAKER: Great.

16 CHAIRMAN ULMER: So we will settle the case one  
17 way or another or continue it at that point in time.

18 UNIDENTIFIED SPEAKER: Thank you, sir.

19 CHAIRMAN ULMER: Okay. So Mister -- I know I'm  
20 saying it wrong -- Eid?

21 MR. ELIAS: Eid.

22 CHAIRMAN ULMER: Okay. Sergeant, are you ready?

23 SGT. PROVOST: Good morning, gentlemen. I'm  
24 Sergeant Michael Provost, and I'm going to be telling  
25 you what's going on this morning. The first thing you

1 need to do is raise your right hand if you're both going  
2 to be witnesses to this case so I can swear you in.

3 MR. STEWART: I'm his attorney, not a witness.

4 SGT. PROVOST: Okay.

5 [The witness was sworn by Sgt. Provost]

6 MR. STEWART: And I'd also ask that Mr. Nunn, if  
7 he could raise his hand and take the same oath.

8 SGT. PROVOST: Okay.

9 [The witness was sworn by Sgt. Provost]

10 SGT. PROVOST: Could you all state your name just  
11 for the record so we know who everyone is?

12 MR. NUNN: Udorn Nunn. Udorn Nunn.

13 SGT. PROVOST: Okay.

14 MR. STEWART: My name is Craig Stewart. I'm an  
15 attorney with Paul Kubosh's office. And your name.

16 MR. ELIAS: My name, Eid Elias.

17 SGT. PROVOST: Okay. So today you're here --  
18 Officer Vaughn has a case against -- against you and  
19 your shop. He will be presenting the case today.

20 CHAIRMAN ULMER: Mr. Nunn, if you're going to  
21 testify, you can move up to the table there. Just pull  
22 a chair up. That way you don't have to move when you  
23 get ready to testify.

24 MR. NUNN: All right.

25 SGT. PROVOST: Officer Vaughn, you can present

1 your case.

2 OFFICER VAUGHN: Okay. Eid's Car Care was  
3 brought before the board back in March, I think. At  
4 that time the board gave him 30 days to correct all his  
5 violations.

6 30 days later, due to some type of scheduling or  
7 notification issue, he wasn't seen. It actually  
8 happened again 30 days later, and he didn't show. So  
9 his attorney and he said that they didn't get notified.  
10 So we gave them another 30 days. We went out -- I went  
11 out and served him and gave him notification to show up  
12 today.

13 The first -- the first 30 days when he had to  
14 reappear, he made a lot of improvements, moved his  
15 vehicles, but, of course, he didn't come before the  
16 board, because he got a continuance.

17 Well, I went back on 6-10, which was like a  
18 couple of weeks later before he was supposed to appear  
19 again, and it was back to business as usual, all the  
20 vehicles were back, he had a bunch of violations, and I  
21 wrote him several tickets.

22 I went out yesterday and inspected again before  
23 today's hearing, and he had several violations, and I  
24 wrote several tickets, which you'll see on Exhibit B,  
25 the second page.

1           LT. HITZMAN: Larry, can you go over the specific  
2 violations?

3           OFFICER VAUGHN: Okay.

4           LT. HITZMAN: And what his notice said on his  
5 letter.

6           OFFICER VAUGHN: Okay. On my inspection  
7 yesterday I noted repaired vehicles held over 30 days  
8 not behind a solid fence, use of disassembly area  
9 without an approved plat. Those were noted on the  
10 inspection form.

11           And then I wrote him three citations for storing  
12 vehicles without current Texas registration and vehicle  
13 inspection stickers, area to keep/store disabled  
14 vehicles at a repair facility without a solid fence,  
15 repair vehicles held over 30 days not behind a solid  
16 fence.

17           The solid fence was an issue from the first time  
18 he appeared before the board. His business is in a  
19 shopping strip. He can't put up a solid fence. That  
20 was part of why the board said that he needs to find a  
21 new place to do business.

22           He did, but he continues to bring in more and  
23 more vehicles and let them sit there for months at a  
24 time, and he keeps piling up the vehicles. So that's  
25 what he was written for yesterday.

1 CHAIRMAN ULMER: Mr. Eid, this is your  
2 opportunity to --

3 MR. ELIAS: Officer come in to me, he give me a  
4 violation, a car in the street. This is not my car in  
5 the street. Never. I have my worker -- three people  
6 work in my place. They park in the side. It's a side  
7 street. It's not the main street. And the officer, he  
8 know that. And he even ask me who's the Nissan? I told  
9 him this is my wife car. He never tell me nothing.  
10 This is before he give me a violation.

11 CHAIRMAN ULMER: So can you -- can you clarify  
12 for me -- you have the officer's packet there in front  
13 of you, as well.

14 MR. ELIAS: Yes.

15 CHAIRMAN ULMER: Where are you referring to?

16 MR. STEWART: We don't have the current -- the  
17 current packet, I guess.

18 MR. ELIAS: I do have a picture for everything.  
19 I take it yesterday, 5 o'clock.

20 CHAIRMAN ULMER: Okay.

21 OFFICER VAUGHN: He didn't get any the citations  
22 for parking on the street or working on the vehicles in  
23 the street. I didn't even note that.

24 CHAIRMAN ULMER: The officer says he didn't give  
25 you any citations for parking on the street.

1 OFFICER VAUGHN: Yesterday.

2 MR. ELIAS: The first time, not yesterday, day  
3 before.

4 CHAIRMAN ULMER: Day before yesterday?

5 MR. ELIAS: Hold on.

6 OFFICER VAUGHN: Previously he was written, like  
7 the first time he came and the photos --

8 CHAIRMAN ULMER: Like two months ago?

9 OFFICER VAUGHN: Three months ago.

10 CHAIRMAN ULMER: Three months ago. Okay.

11 OFFICER VAUGHN: The photo shows a mechanic  
12 working on the vehicle in the street. The board told  
13 him about that.

14 CHAIRMAN ULMER: Right.

15 OFFICER VAUGHN: So -- but he didn't get another  
16 citation for that. That was when he first came.

17 CHAIRMAN ULMER: Okay. Mr. Eid, are you talking  
18 about three months ago? Is that what you're talking  
19 about?

20 MR. ELIAS: It's a violation he come --

21 CHAIRMAN ULMER: What's the date?

22 MR. STEWART: He's talking about in general the  
23 issues that have been brought up by the inspectors  
24 throughout the process here.

25 CHAIRMAN ULMER: Well, he said specifically,

1     though, he got a citation. I'm trying to find out what  
2     citation he's referring to. Is it something in this  
3     packet?

4             MR. ELIAS: You want me to give to you?

5             MR. STEWART: No, it's nothing that's in your  
6     packet, but --

7             CHAIRMAN ULMER: Can you just look at it and tell  
8     me the date on it?

9             MR. ELIAS: Do you want me to come and give it to  
10    you?

11            CHAIRMAN ULMER: You can. I'm just asking for  
12    the date on the actual citation.

13            MR. ELIAS: He give me more those violations, he  
14    give me for --

15            MR. STEWART: He's looking at, I guess,  
16    6-10-2014, which the police officer was -- Officer  
17    Vaughn referenced.

18            CHAIRMAN ULMER: Uh-huh.

19            MR. STEWART: It looks like there's four  
20    violations. The same violations for 7-7, for the most  
21    part.

22            CHAIRMAN ULMER: So what are the violations?

23            MR. STEWART: Inspection -- or storing a vehicle  
24    without current Texas registration and inspection,  
25    failure to maintain proper records of automotive repair



1 facility, operating an automotive repair facility  
2 without a solid gate and no dog license.

3 CHAIRMAN ULMER: Well, there's not anything on --  
4 about a car in the street, though, is there?

5 MR. STEWART: Right, that's nothing we're talking  
6 about right now.

7 CHAIRMAN ULMER: Okay.

8 MR. STEWART: Let me -- can I kind of address  
9 some of this first, and then --

10 CHAIRMAN ULMER: Sure.

11 MR. STEWART: -- we'll have Mr. Eid speak?

12 CHAIRMAN ULMER: Sure.

13 MR. STEWART: Mr. Eid did go take a bunch of  
14 pictures yesterday of the current situation at his shop.

15 CHAIRMAN ULMER: Okay.

16 MR. STEWART: He, obviously, is in a location  
17 where it is a little difficult to operate, as we've  
18 discussed several times before this board. He's put up  
19 fencing to block the view, which is apparent in this  
20 picture here.

21 CHAIRMAN ULMER: Okay. If you could, just go  
22 ahead and pass those around.

23 MR. STEWART: Sure. I was going to kind of  
24 address them one by one, --

25 CHAIRMAN ULMER: I think the City attorney --

1 MR. STEWART: -- if that's okay with you.

2 CHAIRMAN ULMER: Well, I mean if you want to  
3 address them one by one, it's okay, but the City  
4 attorney needs to mark them, as well.

5 MR. CHILDS: Yeah, can we mark them and have them  
6 included in the --

7 MR. STEWART: Yes, I would like to.

8 MR. CHILDS: Okay.

9 MR. STEWART: Yes, please. There's 20  
10 photographs there. Those were all taken yesterday,  
11 according to Mr. Eid again. He went out there yesterday  
12 afternoon and took all these pictures.

13 In a nutshell, his shop is clean, and I don't  
14 think Officer Vaughn will argue with me on that. He's  
15 cleaned up most of the violations that he's faced. He's  
16 taken -- you know, he used to have, when we first  
17 discussed, you know, some of the situations at the shop,  
18 there were -- you know, some of the early pictures that  
19 Officer Vaughn took showed, you know, rags on the ground  
20 and cars everywhere, and it showed like an oil container  
21 in the back, and there was a question of it being  
22 properly diked.

23 He's purchased and installed the oil container  
24 inside the shop now, and that is properly diked, which  
25 Officer Vaughn, I'm sure, will attest to.

1           He has towed off numerous cars from his shop and  
2 is trying to alleviate, you know, the problem of the  
3 cars being parked everywhere in the parking lot.

4           He doesn't really have cars stored everywhere. I  
5 mean you can look at the photographs there and kind of  
6 see the condition of, you know, the parking lot and the  
7 cars that are there.

8           A good many of the cars that are in that parking  
9 lot are not Mr. Eid's cars at all. There's a church  
10 located next door to him in that shopping center that  
11 has, you know, services day and night, seven days a  
12 week, it seems like. And, you know, we've addressed a  
13 lot of this in the past hearings.

14           As far as ongoing violations, he's installed the  
15 screening there on the fence to, you know, try and abide  
16 by the requirements and still, you know, do what the  
17 landlord requires. Obviously, you know, he's sort of,  
18 you know, walking that tightrope between what the City  
19 of Houston wants him to do, obviously, and what the  
20 landlord will allow him to do.

21           He's purchased a new property where he's going to  
22 be able to more easily abide by all the regulations of  
23 the City, you know, and, you know, maintain all the  
24 vehicles behind a solid fence and everything. He has a  
25 huge property that he's purchased. How large is it,

1 nearly an acre; is that right?

2 MR. ELIAS: It's one acre.

3 MR. STEWART: So he's not going to have these  
4 problems in the future. We're just trying to sort of  
5 bridge to getting him in that new shop while the permits  
6 are approved and everything else here.

7 As far as the specific accusations that we're  
8 dealing with today, I guess, which is repairing vehicles  
9 held over 30 days not behind solid fence, he does  
10 have -- you know, he's trying to meet the City's  
11 requirement there of having a solid fence.

12 You can see in the picture that there is a fence  
13 there with material to block the view, and as far as --

14 CHAIRMAN ULMER: If you don't mind, I have one  
15 specific question.

16 MR. STEWART: Sure.

17 CHAIRMAN ULMER: I've numbered the photos. Yeah,  
18 go ahead and start passing them around.

19 MR. STEWART: Sure.

20 CHAIRMAN ULMER: I numbered the photos just so  
21 that we have them numbered --

22 MR. STEWART: Certainly.

23 CHAIRMAN ULMER: -- and we can refer to them. So  
24 I've numbered this one No. 15.

25 MR. STEWART: Okay.

1           CHAIRMAN ULMER: It's a photograph of a car on a  
2 jack stand.

3           MR. ELIAS: This not my car. Somebody stole a  
4 tire. Where I parked my car, it's --

5           CHAIRMAN ULMER: So this isn't one of your --

6           MR. ELIAS: No, sir.

7           CHAIRMAN ULMER: -- cars at all?

8           MR. ELIAS: No, sir.

9           CHAIRMAN ULMER: Okay. I just didn't know what  
10 the picture was for.

11          MR. ELIAS: I know. You see this area?

12          CHAIRMAN ULMER: Uh-huh.

13          MR. ELIAS: I can show you something.

14          MR. STEWART: Do you mind if he approaches?

15          CHAIRMAN ULMER: No, he can. I just was confused  
16 about the car --

17          MR. ELIAS: You see what happened? You see this  
18 elevate complete?

19          CHAIRMAN ULMER: Uh-huh.

20          MR. ELIAS: I pay \$600 every month.

21          CHAIRMAN ULMER: Okay.

22          MR. ELIAS: And officer, he tell me no park car  
23 over there. I don't park my --

24          CHAIRMAN ULMER: Who told you don't park cars  
25 over there?

1 MR. ELIAS: Officer.

2 OFFICER VAUGHN: I don't have a --

3 CHAIRMAN ULMER: Okay.

4 MR. ELIAS: He tell me no park car over there. I  
5 don't park my car over there, and I pay \$600 for  
6 parking.

7 CHAIRMAN ULMER: Well --

8 MR. ELIAS: I have only two car over there  
9 parking, Chevrolet truck and the Honda Accord, and I  
10 have title. And officer every time come up to me, he  
11 love give me violation.

12 CHAIRMAN ULMER: So are you -- are you saying --

13 MR. ELIAS: It's not my car.

14 CHAIRMAN ULMER: You're saying this isn't your  
15 car?

16 MR. ELIAS: No, it's not my car.

17 CHAIRMAN ULMER: Okay.

18 MR. ELIAS: Somebody stole a tire.

19 CHAIRMAN ULMER: I don't know that he's  
20 specifically said this was your car. I mean has --

21 MR. ELIAS: Is not --

22 CHAIRMAN ULMER: Officer, do you --

23 OFFICER VAUGHN: I don't have --

24 CHAIRMAN ULMER: Are you aware of --

25 OFFICER VAUGHN: I'm not aware of that at all.

1 CHAIRMAN ULMER: Okay.

2 OFFICER VAUGHN: I didn't take a picture of that.  
3 He took that picture and presented --

4 CHAIRMAN ULMER: What --

5 OFFICER VAUGHN: -- that to the board.

6 CHAIRMAN ULMER: Now, Mr. Eid, --

7 MR. ELIAS: Yes, sir.

8 CHAIRMAN ULMER: -- do you remember at our first  
9 hearing --

10 MR. ELIAS: Yes, sir.

11 CHAIRMAN ULMER: -- you did have a bunch of cars  
12 on jack stands, --

13 MR. ELIAS: No, no more.

14 CHAIRMAN ULMER: -- and you agreed they were  
15 yours?

16 MR. ELIAS: No more.

17 CHAIRMAN ULMER: Okay.

18 MR. STEWART: Right, but all --

19 CHAIRMAN ULMER: But there were a lot of those  
20 cars.

21 MR. ELIAS: It's no more.

22 CHAIRMAN ULMER: Okay. I understand. I'm just  
23 saying that --

24 MR. ELIAS: Yes.

25 CHAIRMAN ULMER: -- that's the reason --

1 MR. ELIAS: It's in the front.

2 CHAIRMAN ULMER: -- this picture confused me.

3 MR. ELIAS: Not in the back.

4 CHAIRMAN ULMER: Okay.

5 MR. ELIAS: You see right here, with me here in  
6 the first -- last ticket he give me, 9600 Kirkwood. I  
7 don't work on 9600 Kirkwood. Do you see 9600 Kirkwood?  
8 This is my parking. I pay for parking, and I cannot  
9 park for it. Now not going -- you cannot take it off  
10 out of my shop.

11 CHAIRMAN ULMER: So your --

12 MR. ELIAS: The landlord. If I park my car next  
13 to my shop, I'm in trouble. I park it in my area. I  
14 pay for parking. I'm in trouble.

15 CHAIRMAN ULMER: So he's referring to Exhibit C.

16 LT. HITZMAN: Mr. Eid, can you go have a seat so  
17 we can have this on camera and everything?

18 CHAIRMAN ULMER: It references three --

19 OFFICER VAUGHN: Location?

20 CHAIRMAN ULMER: Yeah.

21 OFFICER VAUGHN: 9600 Kirkwood. They -- his shop  
22 is at 9650 Kirkwood. 9600, when you write a ticket, you  
23 put the hundred block.

24 CHAIRMAN ULMER: Okay. So that's just the  
25 hundred block of the shop?



1 OFFICER VAUGHN: Correct.

2 CHAIRMAN ULMER: Okay.

3 OFFICER VAUGHN: Yeah.

4 CHAIRMAN ULMER: Okay. What is your address,  
5 Mr. Eid?

6 MR. ELIAS: 9650 South Kirkwood, Suite A-1.

7 CHAIRMAN ULMER: Right. You understand he's just  
8 referencing your address, right?

9 MR. ELIAS: This -- when he put it in, 9600  
10 Kirkwood, when he -- parking, well, I pay for it, and I  
11 cannot use it by authorized officer. He tell me this  
12 your car. You cannot park it over here.

13 MR. STEWART: His understanding is, is that he's  
14 citing him for these cars that are not his cars being  
15 outside the fenced-in area and for being worked on  
16 outside that area, which are the two violations that  
17 we're dealing with here.

18 CHAIRMAN ULMER: Okay.

19 MR. STEWART: The car that's on jack stands is  
20 not Mr. Eid's car. He's not working on that car.

21 CHAIRMAN ULMER: Well, the officer's clearly said  
22 he hasn't cited him for that car.

23 MR. STEWART: Okay.

24 OFFICER VAUGHN: 9600 Kirkwood on the citation is  
25 for court purposes.

1 MR. STEWART: Right.

2 OFFICER VAUGHN: It has to be the hundred block.  
3 It has nothing to do with his address being at 9600.

4 MR. STEWART: Right, I'm --

5 OFFICER VAUGHN: His address is 9650.

6 MR. STEWART: Right.

7 OFFICER VAUGHN: His complaint about the cars  
8 parked on the street, he doesn't have a citation for  
9 that.

10 MR. STEWART: Right.

11 OFFICER VAUGHN: Yesterday he didn't get one.

12 MR. ELIAS: Every time he come in --

13 MR. STEWART: Hold on. Let's -- let me hear what  
14 the officer has to say. Just a second.

15 OFFICER VAUGHN: So I'm confused about what he's  
16 trying to present to the board. The cars that are  
17 stored are cars, in my photos that I took yesterday, are  
18 all around the shopping strip. You can clearly see  
19 mechanics working on the cars in the pictures. Those  
20 cars on that block near his shop are just spread out.

21 You mentioned a church next door. The church is  
22 not having any service. And I thought that might be a  
23 problem, so I asked him for work orders for some of  
24 those vehicles that were parked in front of the shop,  
25 and he presented them. They're in that exhibit. So

1 those cars he's working on, they're at his shop, not the  
2 church.

3 CHAIRMAN ULMER: My exhibit doesn't have those  
4 photos.

5 OFFICER VAUGHN: There's only one packet --

6 CHAIRMAN ULMER: Okay. That's --

7 OFFICER VAUGHN: -- that's being passed down.

8 CHAIRMAN ULMER: -- going around. Okay.

9 OFFICER VAUGHN: Yes.

10 CHAIRMAN ULMER: Okay.

11 MS. PALMER: The vehicles that's parked between  
12 the yellow stripes --

13 MR. ELIAS: In the back?

14 MS. PALMER: No, I believe that's in the front.

15 MR. ELIAS: Okay.

16 MS. PALMER: Are any of those your parking spots?

17 MR. ELIAS: In the front, all my car -- is four  
18 cars is my car.

19 MS. PALMER: In between the yellow stripes. So  
20 how many do you have?

21 MR. ELIAS: What do you mean?

22 MR. STEWART: He has four parking spots, I  
23 believe is what --

24 MR. ELIAS: I have the front four parking spot --

25 MS. PALMER: Okay.

1 MR. ELIAS: In the -- in the drive -- in the  
2 front of shop I have three parking plus inside the shop,  
3 inside and behind. And in the church area, I have -- I  
4 get with the church area, tell me Eid, park your car any  
5 time, no problem, none whatsoever. They have notarized  
6 paper. I give you notarized paper. You want me come in  
7 with you to court, I come into court with you. I don't  
8 have no problem. I never have no problem with church.

9 Only I have a problem with the officer come and  
10 watch me across the street sitting for 15 minutes. The  
11 time I see him, he come and drive to my front of the  
12 shop and holding his phone like this in front of my  
13 customer like I'm selling drugs. Every customer come  
14 and tell me like I'm drugs --

15 CHAIRMAN ULMER: Mr. Eid, --

16 MR. ELIAS: I'm selling drugs.

17 CHAIRMAN ULMER: -- you understand, Mr. Eid, the  
18 officer's doing his job. I mean you've got to admit the  
19 first set of photos that we saw of your business were  
20 pretty in dismay. Were you proud of --

21 MR. ELIAS: I don't understand --

22 CHAIRMAN ULMER: -- what the --

23 MR. ELIAS: -- the exact --

24 CHAIRMAN ULMER: -- officer brought forward? I  
25 mean I wasn't.

1 MR. ELIAS: I don't understand exactly --

2 CHAIRMAN ULMER: So you're --

3 MR. ELIAS: Three months --

4 CHAIRMAN ULMER: Yeah, but we're here to talk  
5 about what is the case with your business. That's what  
6 we're here to talk about.

7 MR. ELIAS: I'm doing my best to clean up shop.  
8 I'm doing --

9 CHAIRMAN ULMER: Mr. Eid, when this board gave  
10 you a 30-day continuance, that 30-day continuance, and I  
11 remember specifically exactly what we talked about, we  
12 said all problems must be fixed before you come back to  
13 the board.

14 MR. ELIAS: I did --

15 CHAIRMAN ULMER: And you actually got a lot more  
16 than 30 days, right? But you remember that  
17 conversation --

18 MR. ELIAS: Yes, sir, I do.

19 CHAIRMAN ULMER: -- you and I had? We said when  
20 you leave here, you've got to fix all these problems,  
21 and when you come back to us, they all have to be fixed.

22 MR. ELIAS: I fixed --

23 CHAIRMAN ULMER: And you actually got a lot more  
24 time than what you were allowed, because we gave you 30  
25 days. You even said I need 30 days, right?

1 MR. STEWART: May I respond, --

2 CHAIRMAN ULMER: Sure.

3 MR. STEWART: -- Mr. Chairman?

4 So regarding the specific violations, I guess,  
5 that we're dealing with, and regarding this that's in  
6 front of us here today, again, I think that the key is  
7 is he's trying to keep all of his vehicles, you know, to  
8 try and turn everything over quicker, try and not store  
9 umpteen vehicles for these long periods of times, which  
10 is why you don't see the whole shopping center covered  
11 in vehicles like in some of the pictures that I'm sure  
12 Officer Vaughn presented earlier.

13 I mean Officer Vaughn has several times talked  
14 about the progress that he's made and how much better  
15 his shop is. The floors are immaculate. The oil is  
16 contained and not anywhere. There's -- they're not  
17 dumping any oil or anything like that. There's no kind  
18 of environmental violations.

19 The shop itself is working hard to abide by every  
20 regulation of the City of Houston. Mr. Eid has spent  
21 months and many thousands of dollars to try and abide by  
22 every regulation. He's, you know --

23 CHAIRMAN ULMER: Can you give us some examples --

24 MR. STEWART: Sure, sure.

25 CHAIRMAN ULMER: -- of what he's spent?

1 MR. STEWART: Like I said, he's put in the oil --  
2 the new oil rig. He -- I don't know how to describe it.  
3 Forgive me.

4 MR. ELIAS: The oil tank.

5 MR. STEWART: I'm not a mechanic. The new oil  
6 tank that's inside the shop.

7 CHAIRMAN ULMER: Does he have receipts or  
8 anything for these costs that he's spent?

9 MR. ELIAS: Yes, I do. I have -- for fence, my  
10 new property cost me 25,000. I do have receipt.

11 CHAIRMAN ULMER: Not the new property. The  
12 property where you're at where these violations are.

13 MR. STEWART: Did you bring your receipts?

14 MR. ELIAS: I have it at accountant.

15 CHAIRMAN ULMER: You have what?

16 MR. ELIAS: Accountant, he have -- I give it to  
17 my accountant.

18 MR. STEWART: His accountant has it.

19 MR. ELIAS: I don't do my accounting paper.

20 CHAIRMAN ULMER: Okay. So what did you spend? I  
21 mean your attorney said you --

22 MR. ELIAS: Well, I did --

23 CHAIRMAN ULMER: -- spent thousands of dollars.

24 MR. ELIAS: I did --

25 CHAIRMAN ULMER: What did you --

1 MR. ELIAS: I did --

2 CHAIRMAN ULMER: -- spend to try to get --

3 MR. ELIAS: I did -- I did for a fence. I put  
4 somebody cutting grass for shopping center. I'm not  
5 supposed to be cutting it. I did the cleanup supply  
6 complete. I make stuff little here by little here by  
7 little here.

8 MR. STEWART: So he's hired an outside -- what  
9 he's --

10 MR. ELIAS: I hired somebody clean up complete.

11 MR. STEWART: I know sometimes his English is a  
12 little broken, but --

13 CHAIRMAN ULMER: Right.

14 MR. STEWART: -- he's hired a separate contractor  
15 to mow the grass and keep everything neat and organized  
16 outside, even though that should be the responsibility  
17 of the landlord. He's purchased the inside oil tank.

18 He's hired people to clean up the -- you know,  
19 make sure all of the oil stains are removed and things  
20 like that, like we had discussed earlier at an earlier  
21 hearing.

22 He's installed the fencing material behind the  
23 fence, you know, which is a cost of several hundred  
24 dollars, I believe.

25 OFFICER VAUGHN: Which is just temporary fencing.



1 MR. STEWART: Right.

2 OFFICER VAUGHN: It's not -- it's not solid. It  
3 just has a little mesh screen --

4 MR. STEWART: Right.

5 OFFICER VAUGHN: -- across of it.

6 MR. STEWART: There's photographs of it.

7 CHAIRMAN ULMER: That being said, do we have the  
8 definition of solid fence in chapter 8?

9 SGT. PROVOST: We do. It's in chapter 8.

10 CHAIRMAN ULMER: Do you know what -- I didn't  
11 know off the top of my head which one it was, either.  
12 What actual article it is, do you know?

13 MR. ELIAS: The solid fence cost me \$25,000.

14 CHAIRMAN ULMER: \$25,000?

15 MR. ELIAS: \$25,000 --

16 MR. STEWART: He put a solid fence on --

17 MR. ELIAS: -- for my property.

18 MR. STEWART: -- another property.

19 CHAIRMAN ULMER: On another property?

20 MR. STEWART: Right.

21 CHAIRMAN ULMER: Not on this property?

22 MR. STEWART: Right, but it's something -- it's  
23 to be able to --

24 OFFICER VAUGHN: Section 8-30(d), fencing  
25 requirements.

1           SGT. PROVOST: Officer Vaughn, could you tell  
2 what his violation -- as of yesterday, what was his  
3 violation?

4           OFFICER VAUGHN: Yesterday violations were he got  
5 three citations.

6           SGT. PROVOST: Okay.

7           OFFICER VAUGHN: Storing vehicles without current  
8 Texas registration and vehicle inspection sticker, area  
9 to keep, store and dismantle vehicles in repair facility  
10 without a solid fence. They're working on cars  
11 everywhere in the parking lot. And repair vehicles held  
12 over 30 days not behind a solid fence.

13           So I have photos from the first time I ever went  
14 out there for inspection and photos from yesterday, and  
15 some of the same vehicles are still around there, and  
16 they're not behind the solid fence. You can see them.

17           SGT. PROVOST: So the real point for us is that  
18 he's had three months, basically, to stop storing  
19 vehicles past 30 days which he's ignored?

20           OFFICER VAUGHN: Correct.

21           SGT. PROVOST: Okay. And that's still going on  
22 today? He's still storing them outside his mesh  
23 fence -- even if his fence did qualify, he's still doing  
24 what you told him not to do three months ago?

25           OFFICER VAUGHN: Correct.

1 SGT. PROVOST: Okay. You're still storing cars  
2 with bad inspection stickers and all that stuff, and you  
3 know that you can't do it.

4 MR. ELIAS: Is -- you look in the picture, and  
5 the car you talk about it, it's a foreign car. I just  
6 got the parts for it.

7 And even I have 1992 Lexus I order parts by  
8 dealership. It's coming after a month and a half. And  
9 I don't want to keep moving it. Somebody be hitting it.  
10 I park it in the corner where's my parking area.

11 SGT. PROVOST: I understand what you're saying,  
12 but the bottom line is that you're still keeping them  
13 outside that fence past 30 days. Regardless of your  
14 reason, you're still breaking the law. You're still  
15 going against what ordinances told you not to do, and  
16 you have -- that's not going to be an excuse.

17 If that's the case, every automotive repair  
18 business in this city would have that same excuse. So I  
19 mean you had three months to do this, and you've done  
20 nothing. You still have the same main violations,  
21 regardless of your reason.

22 So unless you have something good to say about  
23 that, you're still breaking the law. And what's going  
24 to prove to us that you're not going to continue to do  
25 it? You've continued to do it even though you've been

1 written tickets for it, even though you've been to the  
2 board.

3 So you still continue to store those cars outside  
4 30 days and give us an excuse that parts or whatever.  
5 It doesn't matter what your excuse is. You can't  
6 continue to break the law just because of what? What's  
7 your reason?

8 MR. ELIAS: I never do break the law. It's --

9 SGT. PROVOST: You are. You're breaking the law.

10 MR. ELIAS: It's a nice car. It's not junk car.

11 SGT. PROVOST: Okay.

12 MR. ELIAS: It's not sitting in the bricks.

13 SGT. PROVOST: It's still sitting --

14 MR. ELIAS: It's a clean car.

15 SGT. PROVOST: Sir, if you have a work order and  
16 they're past that 30 days, it has to be behind a solid  
17 fence. Officer Vaughn has been telling you this ever  
18 since three months ago, February or March, when he  
19 started approaching you with this. And you have ignored  
20 that.

21 This board told you they were going to give you  
22 30 days. You've had 90, and you're still ignoring it.

23 MR. NUNN: Is it behind the fence?

24 MS. PALMER: What is this area behind the plat?

25 OFFICER VAUGHN: Well, what he's doing is working

1 on the cars out in the parking lot. It's not even in  
2 his fence. He's just taking parts off cars, the  
3 mechanics are working on them out in the open area, even  
4 way past -- he said he had four parking spaces, three in  
5 front and four across.

6 If you look in those pictures, he's got cars all  
7 the way down that shopping strip where they just go out  
8 there and work on them.

9 MS. PALMER: Okay.

10 OFFICER VAUGHN: When I went out there on 6-10 to  
11 do an inspection, he had maybe eight cars blocking the  
12 entrance and exit to the shopping strip. And I asked  
13 why -- you know, I couldn't get in the lot, and I had to  
14 go all the way around. I go why are these cars here?  
15 He told me somebody tried to break in his shop, so he  
16 parked all the cars where his camera could see them,  
17 which is blocking the entrance and exit.

18 I asked him well, what if a fire happens? The  
19 fire trucks can't even get in the parking lot to put out  
20 the fire. And I told him to move them. He moved them.  
21 That's him on 6-10 on one of my inspections.

22 So I mean he just kind of does what he wants to  
23 do in that corner.

24 MS. RICHARDSON: Do you still have the ambulance  
25 on your property?

1 MR. ELIAS: That one, I have it in the back, in  
2 the building.

3 MS. RICHARDSON: Okay. That work order is dated  
4 March the 29th. Do you still have the 2005 Hyundai  
5 Santa Fe?

6 MR. ELIAS: Yes, ma'am. This is the owner, she  
7 pass away, and her mom, she fixing her car, and she paid  
8 little by little. She want to give to her son.

9 MS. RICHARDSON: Uh-huh. I don't see any totals  
10 down here.

11 MR. ELIAS: What is it?

12 MS. RICHARDSON: This is dated April the 24th.  
13 It's just for an alternator, need to --

14 MR. ELIAS: I put error --

15 MS. RICHARDSON: -- something -- it says  
16 something --

17 MR. ELIAS: -- from inside alternator.

18 MS. RICHARDSON: -- from the daughter.

19 Do you still have a 2003 Chevy Impala?

20 MR. ELIAS: Yes, ma'am.

21 MS. RICHARDSON: Okay. That is dated March the  
22 14th. Security problem.

23 MR. ELIAS: That when I order --

24 MS. RICHARDSON: Yeah, I know what that's for.

25 MR. ELIAS: I order security box. It's worth

1 almost \$350.

2 MS. RICHARDSON: You know, they keep them -- you  
3 know, yeah, they keep them in stock.

4 MR. ELIAS: This only four car --

5 MS. RICHARDSON: Chevy --

6 MR. ELIAS: -- I'm talking about why.

7 MS. RICHARDSON: Chevy has -- Chevy has problems  
8 with their, you know, security. It's --

9 MR. ELIAS: Yes, ma'am, this --

10 MS. RICHARDSON: You know, it's within the --

11 MR. ELIAS: Yes, ma'am. This only four cars when  
12 they talk about it.

13 MS. RICHARDSON: Okay.

14 MR. ELIAS: And I don't want to move it. I mean  
15 it's a running car. I don't want to scratch it. I  
16 don't want to damage it. I order parts. Even I show  
17 him the Suburban, the one you see, I have the seat, and  
18 even I open the trunk, I show it to him. I just got the  
19 seat. I'm going to finish it and get it done.

20 MS. RICHARDSON: But I don't understand. Why is  
21 this vehicle still here? I mean it's March.

22 MR. ELIAS: What is it?

23 MS. RICHARDSON: You know, I mean it's been --

24 CHAIRMAN ULMER: She's asking why the vehicle is  
25 still there.

1 MS. RICHARDSON: Yeah, if it's --

2 CHAIRMAN ULMER: I mean it's been there since  
3 March.

4 MR. ELIAS: For the parts. The parts the  
5 problem.

6 MS. RICHARDSON: The security problem --

7 MR. ELIAS: The parts --

8 MS. RICHARDSON: -- is an easy job to fix.

9 MR. ELIAS: I don't have no parts.

10 CHAIRMAN ULMER: You're saying you can't get  
11 parts?

12 MR. ELIAS: No, get the parts ready --

13 CHAIRMAN ULMER: Well, let me -- let's back up  
14 for one second.

15 MR. ELIAS: Yes, sir.

16 MS. RICHARDSON: For a 2003, yes, you can.

17 CHAIRMAN ULMER: So, real quickly, the pictures  
18 that you've shown us of your solid fence, what is that?  
19 Is that a tarp that you've attached to the fence?

20 MR. STEWART: It's not a tarp. It's a -- it's a  
21 special material --

22 MR. ELIAS: It's a special material.

23 MR. STEWART: -- designed for that purpose that  
24 it's being used for there.

25 CHAIRMAN ULMER: Okay.



1 MR. ELIAS: So nobody can see through --

2 CHAIRMAN ULMER: So what type --

3 MS. RICHARDSON: It's just a mesh.

4 CHAIRMAN ULMER: -- of material is it?

5 MS. RICHARDSON: I've got some of it.

6 MR. STEWART: Right.

7 CHAIRMAN ULMER: It's just a mesh type material?

8 MS. RICHARDSON: It's just a mesh --

9 MR. STEWART: Right. It's -- essentially it's --

10 CHAIRMAN ULMER: Let me read you -- let me read  
11 you the definition of solid fence. Okay? Because I  
12 mean you're -- you are making the assumption that that  
13 solid fence you put up is going to suffice.

14 MR. STEWART: Right.

15 CHAIRMAN ULMER: All fences shall be constructed  
16 of wood, masonry, corrugated sheet metal, chain link or  
17 any combination thereof, provided, however, that any one  
18 side of an automotive wrecking or salvage yard or  
19 automotive repair facility shall be bounded by a fence  
20 or wall constructed of only one of the above materials.

21 Chain-link fences shall be constructed of  
22 galvanized chain-link fencing with wood or metal slats  
23 or strips run through all links of the chain-link fence.

24 All fences or walls shall extend downward to  
25 within three inches of the ground and shall test plumb

1 and square at all times. That fence that you put up  
2 does not meet this definition.

3 MR. STEWART: What is the purpose of the wood or  
4 metal slats?

5 CHAIRMAN ULMER: I'm just telling you what the  
6 definition of it is in City ordinance.

7 MR. STEWART: Right.

8 CHAIRMAN ULMER: And it goes into very great  
9 detail.

10 MR. STEWART: Right. I understand.

11 CHAIRMAN ULMER: So it doesn't say you can put  
12 anything up there that you want.

13 MR. STEWART: Right.

14 CHAIRMAN ULMER: And it's done to maintain an  
15 orderly appearance throughout neighborhoods,  
16 communities, things of that nature.

17 MR. STEWART: Exactly.

18 CHAIRMAN ULMER: That's the purpose of it.

19 MR. STEWART: Right.

20 CHAIRMAN ULMER: So this material that you have  
21 put up there, and I'm not familiar with the material,  
22 but if it's not a material -- the reason these materials  
23 were chosen and the reason that it specifically implies  
24 they need to be plumb and test plumb at all times is  
25 because we don't want fences falling down. We don't

1 want material on a fence like, you know, construction  
2 mesh that is only designed to last for a short period of  
3 time and it's going to be deteriorated by the sun.

4 Have you ever seen what happens to a tarp out in  
5 the sun in a couple of months? It becomes raggedy  
6 strips that are blowing in the wind. And that's what  
7 I'm afraid is going to happen with the material that you  
8 put up there.

9 We haven't seen any receipts for that material or  
10 a demonstration of that type of material or any  
11 description of that material to say this is what it's  
12 for, and it will last five years in the sun.

13 MR. STEWART: Sure.

14 CHAIRMAN ULMER: We haven't seen any of those  
15 things. So I think what we've kind of done is try to  
16 circumvent the 30-day rule by putting some type of  
17 material. It looks like tarps to me in the photos,  
18 maybe it's not. Do you -- can you give me some more  
19 information on this material that you've chosen? Is  
20 that what it's for?

21 MR. ELIAS: It looks --

22 MR. STEWART: Yes.

23 MR. ELIAS: -- like a tarp. This is special for  
24 fence.

25 MR. STEWART: It's a mesh.

1 CHAIRMAN ULMER: It looks like a tarp.

2 MR. STEWART: Like one of the board members said.

3 MR. ELIAS: It looks like a tarp.

4 MR. STEWART: She was familiar with it.

5 MR. ELIAS: It's special for fence. I ordered  
6 it --

7 CHAIRMAN ULMER: Where did you -- where did you  
8 buy it?

9 MR. ELIAS: I ordered it -- Anthony was --  
10 Anthony, --

11 CHAIRMAN ULMER: Okay.

12 MR. ELIAS: -- a friend of mine, he ordered it  
13 for me.

14 CHAIRMAN ULMER: Okay.

15 MR. ELIAS: And the one he come in with me was  
16 doing my shop, the new shop. He ordered it for me.

17 CHAIRMAN ULMER: How do you attach it to the  
18 fence?

19 MR. ELIAS: Yeah.

20 CHAIRMAN ULMER: How? How do --

21 MR. ELIAS: Which one?

22 CHAIRMAN ULMER: -- you attach it?

23 MR. STEWART: There's grommets, I believe, where  
24 it --

25 MR. ELIAS: Which one, other fence?

1 CHAIRMAN ULMER: Yes.

2 MR. ELIAS: Other fence is solid fence.

3 CHAIRMAN ULMER: No, no, no, this fence.

4 MR. ELIAS: This fence?

5 CHAIRMAN ULMER: Do you have photos of it?

6 MR. STEWART: He's asking how it's attached.

7 MR. ELIAS: Attached by -- it's plastic tie.

8 OFFICER VAUGHN: Zip ties.

9 MS. RICHARDSON: Ties?

10 MR. ELIAS: You have a special --

11 CHAIRMAN ULMER: So you use zip ties to --

12 OFFICER VAUGHN: Zip ties.

13 MR. ELIAS: -- special area --

14 OFFICER VAUGHN: Right.

15 CHAIRMAN ULMER: So it's basically a tarp that  
16 you've zip tied to the fence?

17 MR. STEWART: It's not a tarp. It's specially  
18 designed for --

19 MR. ELIAS: It's --

20 MR. STEWART: -- the purpose for --

21 MR. ELIAS: It's for fence.

22 MR. STEWART: -- which he's using it right now.

23 MS. RICHARDSON: Yeah.

24 CHAIRMAN ULMER: Okay.

25 MR. STEWART: It's designed to be used as it is

1 here.

2 CHAIRMAN ULMER: Do you -- I mean, do you have  
3 something to show that's what it's designed for?

4 MR. STEWART: I mean we can --

5 CHAIRMAN ULMER: Do you have a receipt or --

6 MR. STEWART: -- send you an internet link or  
7 something, whatever you'd like.

8 CHAIRMAN ULMER: I still don't believe that this  
9 meets this definition.

10 MR. STEWART: Sure.

11 CHAIRMAN ULMER: I mean --

12 MS. RICHARDSON: Yeah, because -- because I mean,  
13 you know, --

14 CHAIRMAN ULMER: I think the key is --

15 MS. RICHARDSON: -- we're having a conversation  
16 here that --

17 CHAIRMAN ULMER: -- that it really doesn't meet  
18 the definition.

19 MS. RICHARDSON: -- that's the troubling part,  
20 because it is not -- we go by the guidelines that have  
21 been laid out by the City in chapter 8. And at this  
22 time that does not meet those guidelines. So I can't  
23 even understand why we're even having this conversation  
24 about this mesh. He read off to you exactly what the  
25 requirements are. We see this all the time, and you're

1 arguing with us over it, well, this is a fence, this is  
2 a fence, this a fence. It's a temporary cover-up.

3 We go by chapter 8, what is written in chapter 8.  
4 If you have an issue with that, then you need to go to  
5 city council and say you need to change the ordinance.

6 MR. ELIAS: This here I put it in stability  
7 fence. I cannot put solid fence. Solid fence is going  
8 to cost me a lot of money.

9 MS. RICHARDSON: That is not our problem.

10 CHAIRMAN ULMER: Yeah, it's -- that -- you're  
11 talking about something that's --

12 MS. RICHARDSON: And I understand.

13 CHAIRMAN ULMER: -- really not our issue.

14 MS. RICHARDSON: I understand. You know, I had  
15 to go through the same thing with -- you know, with my  
16 company when I opened it up 22 years ago. You know, I  
17 have a solid fence, you know, and I have to go by those  
18 rules.

19 MR. STEWART: Right.

20 MS. RICHARDSON: You have to go by those rules --

21 MR. STEWART: And on --

22 MS. RICHARDSON: -- if you're going to be in  
23 business.

24 MR. STEWART: On his new property he has solid  
25 fencing around it --

1 MS. RICHARDSON: We're not talking about the new  
2 property.

3 MR. STEWART: Right, I understand.

4 MS. RICHARDSON: We're talking about what is  
5 current.

6 MR. STEWART: Right.

7 MS. RICHARDSON: Let's don't even go to the new  
8 property. I could care less about the new property --

9 MR. STEWART: Right.

10 MS. RICHARDSON: -- right now.

11 CHAIRMAN ULMER: I believe the officer has  
12 something to add.

13 OFFICER VAUGHN: Yes. Regardless, it is a  
14 temporary fix, but it doesn't meet the code. But,  
15 regardless, just like you read off the four vehicles  
16 that I took photos of, they have all been there longer  
17 than 30 days, and I only did four, and there's more, but  
18 I thought four would be enough for the board, but,  
19 regardless, those vehicles are still held longer than 30  
20 days, and they are not behind that temporary fence.  
21 They're out in the front of the --

22 MS. RICHARDSON: And these are simple. These are  
23 simple. These are in and out, --

24 CHAIRMAN ULMER: So, Mr. Eid, are these --

25 MS. RICHARDSON: -- you know, repairs.



1 CHAIRMAN ULMER: -- are these vehicles that we  
2 talked about and we asked you about, are they not behind  
3 the fence?

4 MR. ELIAS: Which one?

5 CHAIRMAN ULMER: They're outside?

6 MR. STEWART: The four that he just discussed  
7 with you.

8 MR. ELIAS: I park it in the front one parking  
9 outside.

10 CHAIRMAN ULMER: So they are not behind the  
11 fence?

12 MR. ELIAS: It's nice car. Nothing about it --

13 CHAIRMAN ULMER: Right, but you would agree  
14 they're not behind the fence? Okay.

15 MR. STEWART: But I don't think he --

16 CHAIRMAN ULMER: That was our point.

17 MR. STEWART: I don't think he's storing them out  
18 there in front of the shop, are you?

19 OFFICER VAUGHN: There's no where else --

20 MR. ELIAS: I move it.

21 OFFICER VAUGHN: -- to store it.

22 MR. ELIAS: Move it.

23 OFFICER VAUGHN: They're out there, and they're  
24 always out there.

25 MS. PALMER: So, Mr. Eid, I think it would be

1 looked as it did in the beginning, right? It's not full  
2 of cars all the way down to the end like it was in the  
3 beginning, right?

4 OFFICER VAUGHN: It's still full of cars. Every  
5 space is not full of cars, but it's still full of cars.  
6 I mean you can see it in the photos that I took  
7 yesterday.

8 MR. STEWART: I still haven't seen the photos  
9 that you took --

10 MS. RICHARDSON: You just said a key word,  
11 shopping --

12 CHAIRMAN ULMER: Would you --

13 MS. RICHARDSON: -- center.

14 CHAIRMAN ULMER: Would you pass those photos that  
15 we have there as Exhibit D to the --

16 MS. RICHARDSON: It's not set up for an  
17 automotive repair facility. It is a shopping center.

18 MR. STEWART: Right, which is why he's trying to  
19 purchase the new land that you don't want to hear about.

20 OFFICER VAUGHN: Yeah, but the whole issue is,  
21 which is what we said when we -- the first board hearing  
22 was no one's saying that he doesn't do good work --

23 MR. STEWART: Right.

24 OFFICER VAUGHN: -- or repair cars on his  
25 repaired vehicles. We're saying that where he is is not

1 sufficient for the amount of business that he does. He  
2 needs to have that new space. He needs to move to that  
3 new space.

4 SGT. PROVOST: How long before the new shop  
5 opens?

6 MR. ELIAS: I send it for the County. I get the  
7 County permit, and I send it for the City. And they  
8 tell me like 11, 12 days it's going to give me permit  
9 for City, and the guy start build it right away. You  
10 know, I'm not going to start until I have a permit in my  
11 hand --

12 SGT. PROVOST: So how long -- I mean I need a --  
13 tell me an estimated time you're talking about before  
14 your new shop is going to open.

15 MR. ELIAS: I'll be honest with you, I ask the  
16 guy how long he going to take to build the building. He  
17 tell me about four months.

18 LT. HITZMAN: So he has to build a building on  
19 the property?

20 MR. ELIAS: Yes.

21 LT. HITZMAN: There's nothing on it already?

22 MR. STEWART: Right.

23 MR. ELIAS: It's going to take him about four  
24 months.

25 MR. STEWART: He just has like a fence around it,

1 for that morning or something.

2 MR. ELIAS: I have them -- I moved them around  
3 and I put it back. I don't move it far away. I know  
4 somebody broken in. Last -- before we come in, somebody  
5 robbed me, stole a car out of there and stole my phone  
6 and he saw everything. Every time he come and give me a  
7 violation. And this is why you see the car, I park it  
8 in the front.

9 CHAIRMAN ULMER: It's not the officer's fault  
10 that someone come and robbed you.

11 MR. STEWART: Right.

12 CHAIRMAN ULMER: I mean the issues that we're  
13 talking about here are housekeeping issues. These are  
14 the issues that we're talking about.

15 MR. STEWART: Can we hear from Mr. Nunn and --

16 CHAIRMAN ULMER: Certainly.

17 MR. STEWART: -- his interactions --

18 CHAIRMAN ULMER: Certainly.

19 MR. STEWART: -- with the shop?

20 MR. NUNN: Yeah, I've known Mr. Eid for about  
21 eight years. He moved from another mechanic shop. He  
22 used to work with his brother. He has his own shop now.  
23 He's very efficient at the work he does with my  
24 vehicles. I have four vehicles over there. I let  
25 him -- I had a diesel vehicle, the one ton, I had a

1 problem with, with a transmission. He took it in the  
2 shop and had checked it out, found out it was just a  
3 fuel filter, a very simple fuel filter. He told me to  
4 buy ACDelco fuel filter instead of an aftermarket one,  
5 and it worked out great.

6 But every time I went to his shop, you know, he  
7 was very clean. He did my job fast, and I left. You  
8 know, he does all of my inspections as well in the back  
9 of his shop, and he's very etiquette about putting my  
10 car in the shop, because of the state -- I guess the DOT  
11 regulations over there got to insist that the car's got  
12 to be in the shop to get --

13 CHAIRMAN ULMER: Right.

14 MR. NUNN: -- to get inspected on that end. But  
15 he's done very good work for me over there.

16 MR. STEWART: And he works on your car inside the  
17 shop, you say?

18 MR. NUNN: Yes.

19 CHAIRMAN ULMER: Are you aware of vehicles being  
20 worked on outside the shop? I mean we actually have  
21 photos of vehicles being repaired --

22 MR. NUNN: When I was there --

23 CHAIRMAN ULMER: -- in the parking lot.

24 MR. NUNN: When I was there, I've seen them --  
25 when other cars drive up, he just opened the hood up and

1 looked and give them a quote, and then if they want to  
2 get it done, then he -- and he pulls it in if he can  
3 work on it. If he can't work on it, he tells them  
4 you've got to come back later when I was there.

5 CHAIRMAN ULMER: Do you live near his shop?

6 MR. NUNN: No, I live on the Katy side of town.

7 CHAIRMAN ULMER: Okay.

8 MR. NUNN: Yeah.

9 CHAIRMAN ULMER: Do you see -- you kind of  
10 understand what -- you know, these are neighborhood  
11 protection issues that we're --

12 MR. NUNN: Yeah.

13 CHAIRMAN ULMER: -- really talking about --

14 MR. NUNN: Well --

15 CHAIRMAN ULMER: -- here, and --

16 MR. NUNN: When I was there one time --

17 CHAIRMAN ULMER: -- those are really the things  
18 that we're keying in on.

19 MR. NUNN: Right. I went there one time. The  
20 church was -- I guess they had a church next door. They  
21 were out there barbecuing and cars all over the place,  
22 and I didn't think -- I didn't know what was going on.  
23 I thought it was some kind of activity or some festival  
24 or something, but that's the only time I seen. But  
25 those were nice cars that he was working on when they

1 would have some church going on.

2 CHAIRMAN ULMER: When was that? I mean --

3 MR. NUNN: It was a church organization over  
4 there.

5 CHAIRMAN ULMER: Right, but when was that?

6 MR. NUNN: It was on a Saturday.

7 CHAIRMAN ULMER: Okay. I don't think our  
8 officers have been out there --

9 MR. NUNN: Yeah.

10 CHAIRMAN ULMER: -- on a Saturday.

11 MR. NUNN: It was on a Saturday probably about  
12 maybe 4 or 5 o'clock.

13 CHAIRMAN ULMER: Okay.

14 MR. NUNN: In that time.

15 CHAIRMAN ULMER: Officer, did you have some  
16 things to add?

17 OFFICER VAUGHN: Once again, we are not talking  
18 about the quality of work --

19 MR. NUNN: Yeah.

20 OFFICER VAUGHN: -- he does. That has nothing to  
21 do with why he's here. It's his violations. I mean if  
22 he fixed your car with an ACDelco filter or whatever and  
23 he did a good job, okay. That's not why we're here.  
24 We're talking about his violations. So he needs to fix  
25 those things.

1 MR. STEWART: Eid does good work at a fair price,  
2 and, you know, he tries to help people out, which I  
3 think is why --

4 CHAIRMAN ULMER: But, remember, that's --

5 MR. STEWART: -- some of this --

6 CHAIRMAN ULMER: Those are great issues.

7 MR. STEWART: I understand.

8 CHAIRMAN ULMER: And I appreciate that.

9 MR. STEWART: Right.

10 CHAIRMAN ULMER: But I think it's very clear why  
11 we're here.

12 MR. STEWART: Right.

13 CHAIRMAN ULMER: We have some specific  
14 violations, some specific reports, --

15 MR. STEWART: Sure.

16 CHAIRMAN ULMER: -- and we're really wasting  
17 everybody's time talking about what great work he does.  
18 I appreciate that. Okay? That helps the automotive  
19 industry. But the dismay that his business is in hurts  
20 the automotive industry much more than doing great work,  
21 and it hurts the community, it hurts the environment, it  
22 hurts all of these things, and those things have not  
23 been taken care of.

24 Do you have anything to present us to show that  
25 these reports are not accurate?



1 MR. STEWART: I mean we've presented 20 pictures  
2 and the testimony of Eid and his witness here. I mean I  
3 think that it speaks for itself. I mean I think that  
4 when you compare the before pictures, the first pictures  
5 that Officer Vaughn ever took, and the pictures that  
6 were taken yesterday, it's night and day.

7 CHAIRMAN ULMER: Right.

8 MR. STEWART: It's night and day.

9 CHAIRMAN ULMER: You were here for the first  
10 hearing, correct?

11 MR. STEWART: Yes.

12 CHAIRMAN ULMER: And you remember us specifically  
13 speaking of and saying this business has to be 100  
14 percent when you come back?

15 MR. STEWART: Right, I do.

16 CHAIRMAN ULMER: And do you agree now that we've  
17 had more than twice as much time as was initially  
18 allotted for that?

19 MR. STEWART: Right. Yes.

20 CHAIRMAN ULMER: Okay. We -- this board told  
21 Mr. Eid we have no problem, we'll give you another  
22 continuance. Okay? So we did that. And now he's had  
23 more than twice the amount of time that you originally  
24 gave him.

25 MR. STEWART: Right.

1           CHAIRMAN ULMER: And do you feel like his  
2 business is a hundred percent to compliance?

3           MR. STEWART: I feel like he's in compliance,  
4 yes.

5           CHAIRMAN ULMER: You feel like -- so you feel  
6 like that solid fence meets that ordinance that I read  
7 to you?

8           MR. STEWART: I feel like it meets -- it's  
9 substantially in compliance, that it meets the purpose  
10 of the ordinance.

11          CHAIRMAN ULMER: So -- but it doesn't meet the  
12 description of a solid fence.

13          MR. NUNN: I --

14          CHAIRMAN ULMER: Do you have something to add?

15          MR. NUNN: I had a quick question. I didn't know  
16 about his fence situation or anything, but I have -- I  
17 have those slats you're talking about. I can tell him  
18 where to get them at. There's a Foster Fence Company  
19 off of Highway 90 --

20          CHAIRMAN ULMER: Well, unfortunately, I think  
21 we're beyond that point.

22          MR. NUNN: Yeah.

23          CHAIRMAN ULMER: That should have been done a  
24 month ago, because that was really the alternative.

25          MR. NUNN: Well, if he knew the definition, he

1 probably could have got them correctly, but --

2 OFFICER VAUGHN: It's his responsibility.

3 MR. NUNN: -- if he didn't know --

4 CHAIRMAN ULMER: We made it clear.

5 MR. NUNN: Yeah.

6 CHAIRMAN ULMER: It was very clear in the first  
7 meeting --

8 MR. NUNN: Right.

9 CHAIRMAN ULMER: -- what that definition was.

10 MR. NUNN: Yeah, I can tell him where to get  
11 them.

12 MR. SANCHEZ: I have a question. This is  
13 Benjamin Sanchez, for the record. Do we have a copy of  
14 the notice of violations from the last hearing from  
15 which this was continued?

16 OFFICER VAUGHN: Yes.

17 SGT. PROVOST: Yes.

18 CHAIRMAN ULMER: You mean the initial hearing?

19 MR. SANCHEZ: When did the last hearing --

20 CHAIRMAN ULMER: Two hearings ago.

21 SGT. PROVOST: Is that the one from March 24th?

22 OFFICER VAUGHN: Yeah, yeah.

23 MR. SANCHEZ: Whatever the basis of the hearing  
24 is.

25 CHAIRMAN ULMER: March 24th, yes.

1 MR. STEWART: I mean I've seen -- I've seen  
2 violations for weeds, which he specifically addressed by  
3 hiring an outside contractor to do that, even though  
4 he's in a unit that is supposed to be maintained.

5 I've seen violations for parts on the floor,  
6 which there's not a single part on the floor.

7 I've seen violations for rat harborage, and  
8 there's no rat harborage.

9 I've seen tickets or violations for a cat or a  
10 dog, and there's no cat or a dog in his shop.

11 OFFICER VAUGHN: But there was when the tickets  
12 were written.

13 MR. STEWART: Right, but there's --

14 OFFICER VAUGHN: Okay.

15 MR. STEWART: -- none yesterday, right?

16 OFFICER VAUGHN: Okay. I just want to make  
17 sure --

18 CHAIRMAN ULMER: You're saying these are things  
19 that have been corrected?

20 MR. STEWART: Right. I'm saying he's taken  
21 extensive remediation measures here. He really has.  
22 I've seen tickets for illegal disposal of waste where  
23 there was some runoff, and he's corrected all of that.  
24 Or violations that were marked on here.

25 I've seen violations for illegal dumping, and

1 there's no illegal dumping, no garbage piled up, no  
2 nothing. He's talked to his neighbors, and he's worked  
3 with the neighbors to make sure that they're trying to  
4 keep their trash in a little bit better order, because  
5 there's -- what is it, a meat market next to it that --

6 MR. ELIAS: They did see.

7 MR. STEWART: -- keeps their stuff --

8 MR. ELIAS: He never take no picture for it.

9 MR. STEWART: -- messy.

10 MR. ELIAS: Yesterday they take picture of my  
11 stuff.

12 MR. STEWART: They've --

13 CHAIRMAN ULMER: That officer --

14 MR. ELIAS: They didn't take picture for that.

15 CHAIRMAN ULMER: That officer is not charged with  
16 taking care of a meat market. Remember --

17 MR. STEWART: They've given him violations for  
18 having cars parked on the street, and there weren't cars  
19 parked on the street to be worked on or anything like  
20 that.

21 His workers are authorized to park along the curb  
22 for a less than 24-hour period just like anybody else in  
23 the city of Houston can.

24 I've seen numerous violations that have all been  
25 corrected, and right now we're arguing over whether or

1 not this is -- you know, whether this fence meets the  
2 statutory definition for the most part.

3 MR. SANCHEZ: Counsel, this is Benjamin Sanchez  
4 again for the record. We should all identify ourselves  
5 since we do have a court reporter and not talk over each  
6 other when we're doing this.

7 The violation notice that originally set this  
8 hearing in place, there was an agreement, was there not,  
9 that all the violations in this notice would be complied  
10 with, correct?

11 MR. STEWART: We had discussed that, yes.

12 MR. SANCHEZ: And, in fact, you and your client  
13 had agreed to do that within a certain amount of time,  
14 correct?

15 MR. STEWART: Yes, we're -- we're --

16 MR. SANCHEZ: Okay. So what -- I'm just going to  
17 go through these one by one real quick. I'm not going  
18 to go over all --

19 MR. STEWART: Sure.

20 MR. SANCHEZ: -- the evidence. It seems that one  
21 of the violations was several vehicle parts scattered on  
22 the ground. I don't see that as a violation. So we can  
23 assume that violation is correct. No. 3 says that there  
24 should be no excess grass or weeds. I don't see any  
25 violations. So I assume that's correct. No. 4 says

1 that there should be a register of each repair the  
2 person has made to the -- to the vehicles, a description  
3 of each motor vehicle that is repaired. I believe that  
4 is correct. I don't think that is the registration  
5 you're talking about now, correct?

6 OFFICER VAUGHN: Correct.

7 MR. SANCHEZ: Then we also had the violation  
8 regarding maintaining documentation on the vehicles  
9 being repaired in your place of business. I don't think  
10 that's a current violation, correct?

11 OFFICER VAUGHN: No.

12 MR. SANCHEZ: So while we're here -- so what  
13 we're here on really, even though there may be new  
14 violations, the agreement was that he was supposed to  
15 take care of these violations within a certain amount of  
16 time. What we're still left with, though, is violation  
17 No. 1, which is the fence, correct?

18 OFFICER VAUGHN: That is correct.

19 MR. SANCHEZ: And you would agree that even  
20 though these other violations have been fixed, you still  
21 didn't fix the fence, correct?

22 MR. STEWART: I disagree with that analysis. I  
23 think he's substantially in compliance, and I think he's  
24 doing what he physically can do to abide by it.

25 MR. SANCHEZ: Well, I will tell you that the

1 ordinance -- the -- there is no substantial compliance  
2 standard, but certainly the board is free to take this,  
3 and, you know, we've done this before, but it's up to  
4 the board as to whether or not the fact that he's  
5 improved on some but not all, but I want to make it  
6 clear, since we do have an attorney here and we do have  
7 a court reporter here, that the -- he hasn't been given  
8 a notice of hearing on the new citations, correct?

9 OFFICER VAUGHN: Yes, he got new citations  
10 yesterday.

11 MR. SANCHEZ: Right, but he had not received a  
12 notice of hearing on that?

13 OFFICER VAUGHN: Oh, no.

14 MR. SANCHEZ: So what we're here on -- in  
15 essence, what we're here on is the fence now? So I  
16 appreciate the fact that we've gone over all these other  
17 violations, and I guess we could consider it, but we're  
18 not really here on those violations.

19 So the question, I think, that this board has to  
20 answer for now, because these other violations may come  
21 up for a hearing, but they're not before us now, is  
22 whether or not we revoke the license because he still  
23 doesn't have a fence that meets the ordinance definition  
24 of the fence.

25 So with that respect, I think we could pretty



1 much narrow the focus of our hearing and try to get to a  
2 conclusion.

3 CHAIRMAN ULMER: And I think, to add to that just  
4 a little bit, that is a twofold issue. If he does not  
5 have vehicles that are held over 30 days, he doesn't  
6 have these fence issues. So he could have done either  
7 one of two things, construct a fence or not hold cars  
8 over 30 days. It was made very clear.

9 As Mr. Eid has testified here today, he  
10 literally -- the vehicles that he spoke about, does not  
11 have them behind what he calls a solid fence, and he  
12 left them out front, because he said they looked okay,  
13 so he could park them in the parking lot. But they were  
14 over 30 days. They are three, four, five months. Some  
15 of them from prior to this hearing even.

16 And those vehicles are not -- have not been put  
17 behind anything solid, not been put inside. They've  
18 been left out. Correct, Mr. Eid?

19 MR. ELIAS: That's only car --

20 CHAIRMAN ULMER: That's what you testified  
21 earlier.

22 MR. ELIAS: That's only car I'm going for parts,  
23 that's it. It's next to the shop, next to the corner.

24 CHAIRMAN ULMER: Right, but those vehicles are  
25 not behind any solid fence. They're out in the parking

1 lot.

2 MR. ELIAS: It's not solid fence next to it.

3 It's like it's all --

4 MR. STEWART: His question is those four cars.

5 MR. ELIAS: -- all like --

6 MR. STEWART: Those four cars that you were --

7 MR. ELIAS: -- three, and nobody can see through  
8 it. Only the officer tell me when he come and look at  
9 it that he says I see --

10 CHAIRMAN ULMER: But the cars are not behind  
11 that?

12 MR. ELIAS: No, it's --

13 CHAIRMAN ULMER: They're out in --

14 MR. ELIAS: -- not behind the fence --

15 CHAIRMAN ULMER: -- the parking lot, right?

16 MR. ELIAS: Behind the bush.

17 CHAIRMAN ULMER: Behind the bush?

18 MR. ELIAS: Yeah. It's a nice bush in the front,  
19 and we had --

20 CHAIRMAN ULMER: Okay. But the cars are in the  
21 parking lot, correct?

22 MR. ELIAS: In the parking lot.

23 CHAIRMAN ULMER: Okay.

24 LT. HITZMAN: You understand the ordinance  
25 doesn't give an exception because you -- you think it's

1 a nice car or because you're waiting on parts? It says  
2 if it's more than 30 days, it has to be behind the  
3 fence. That's just what we're trying to get you to  
4 understand. It doesn't give an exception because it's a  
5 nice car and you can park it up front all the time.

6 MR. ELIAS: I'll move it. I'll move it.

7 CHAIRMAN ULMER: Do y'all have any additional  
8 information to add, or do we have any additional  
9 comments or questions from the board?

10 MR. STEWART: I think that's it. I mean in a  
11 nutshell, just to wrap up, you know, he's doing  
12 everything he can to try and fix all these issues. He's  
13 fixed numerous issues. There's numerous things that are  
14 no longer even on the radar here as board member Sanchez  
15 addressed here.

16 We just -- you know, if it's going to require  
17 slats in the fence, then I'll get him to go put slats in  
18 the fence. I mean it is what it is, so -- get him to  
19 move those four cars that are out front. But he's in  
20 substantial compliance with the law. He's doing his  
21 very best every day to run a good shop, a fair shop, a  
22 clean shop and to abide by all the laws of the City of  
23 Houston and to make sure that it's a shop that we can be  
24 proud of in our neighborhoods and in our city.

25 He helps people every day. One of the reasons he

1 had these cars is because, you know, like he was  
2 discussing, you know, he would work with people on  
3 payments.

4 And I understand that maybe that's not something  
5 that -- that he should be doing, but out of the goodness  
6 of his heart, that's what he's doing. He's trying to  
7 help people.

8 MR. SANCHEZ: Okay. Counsel, may I ask  
9 point-blank what it is you're seeking here today?

10 MR. STEWART: We're seeking to allow him to stay  
11 in business.

12 MR. SANCHEZ: But what is -- what is your  
13 specific request?

14 MR. STEWART: My specific request is that this  
15 board take all of these factors into consideration and  
16 to basically rule that he may continue to do business  
17 then.

18 MR. WANG: Mr. Chairman, I remember --

19 MR. STEWART: And to not revoke his ability to do  
20 business.

21 MR. WANG: His -- by my memory, because we worked  
22 together to solve this case, we clearly say comply all  
23 ordinance, --

24 CHAIRMAN ULMER: You've got to speak up.

25 MR. WANG: -- not only for the violation, which

1 that means on March he maybe have 10 violation. He  
2 correct eight violation, but he make another five, six  
3 new violation. Okay? On that day we says all the  
4 violation, and made that clearly, including it's not  
5 there. We say all the violation -- violation, because  
6 Officer Vaughn make it clear, he said he's not -- he's  
7 good technician, he's good shop, but that location no  
8 way to qualify all the City ordinance. There's no way  
9 in this shopping center to make a legal shop. Okay?  
10 But still we'll give him 30 days to make clearly for  
11 everything.

12 Lawyer Sanchez say only count the first time the  
13 violation he correct, and the new violation we cannot  
14 count. I don't think this is the agreement we make on  
15 that time.

16 MR. SANCHEZ: Well, my concern, Chairman Wang, is  
17 that we want to protect the board's decision, and we  
18 want to make sure that the record is clear so that there  
19 are no issues on appeal, because, obviously, we have a  
20 court reporter here.

21 So I would urge the board that if we're going to  
22 revoke his license, that we do so on the violation of  
23 the fence, which is clearly noticed, and that we not --  
24 it would be my request that we not on the record  
25 consider other things other than the violations that

1 were already noticed.

2 With that -- with that said and with the  
3 counsel's request that we not revoke, I'm going to make  
4 a motion that we do revoke.

5 CHAIRMAN ULMER: I have a motion that we revoke  
6 the -- we deny the appeal -- no, it's not an appeal.  
7 It's a revocation. So that we have a motion that we  
8 continue the revocation. Do I have a second for that  
9 motion?

10 MR. WANG: It's not an appeal?

11 CHAIRMAN ULMER: It's not an appeal. It's a  
12 revocation. So Mr. Sanchez is making a motion to revoke  
13 his automotive repair facility license.

14 MR. WANG: Okay. I second.

15 CHAIRMAN ULMER: Mr. Wang seconds that motion.  
16 All in favor of that motion?

17 [All members present raised their hands]

18 Anyone opposed to that motion?

19 No one's opposed.

20 All right. Mr. Eid, your license has been  
21 revoked at this point in time. You can do no new  
22 business. You can complete the business that you have  
23 on hand right now, today, and you will have to be able  
24 to document that you're only completing business that  
25 you have on hand today. Okay? Do you understand that?

1 You do not have a license to take in any new business.  
2 You can complete only the vehicles that you actually  
3 have today.

4 MR. STEWART: We'd ask to be provided a full copy  
5 of the file of everything, of all the exhibits and  
6 documents and everything.

7 CHAIRMAN ULMER: What we will provide you with  
8 today is a letter that explains the revocation.

9 MR. STEWART: Sure.

10 CHAIRMAN ULMER: You can request any documents  
11 that you want in writing under the Open Records Act, but  
12 this wouldn't be the proper place to do that. So any  
13 documents that you do want, please request those -- go  
14 through the Open Records Act.

15 -----  
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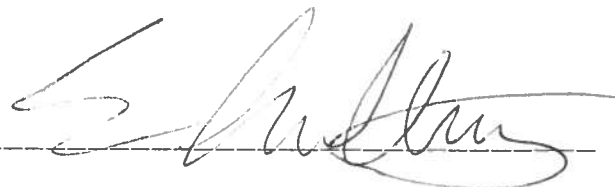
## REPORTER'S CERTIFICATION

I, Shawn Kelley, Certified Shorthand Reporter  
No. 3448 in and for the State of Texas, hereby certify  
to the following:

That the transcript of the City of Houston  
Automotive Board hearing is a true record of the City of  
Houston Automotive Board hearing.

I further certify that I am neither counsel for,  
related to, nor employed by any of the parties in the  
matter in which this proceeding was taken, and further  
that I am not financially or otherwise interested in the  
outcome of the matter.

Certified to by me this 4<sup>th</sup> day of September,  
2014.



Shawn Kelley, Texas CSR No. 3448  
Expiration Date: 12-31-15  
Nell McCallum & Associates  
Firm Registration No. 243  
5300 Memorial, Suite 600  
Houston, Texas 77007  
(713) 861-0203



## LAWYERS NOTES

| PAGE | LINE |
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This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

# **City of Houston Automotive Board**

Tuesday, April 8<sup>th</sup>, 2014

Hearing for:  
Mr. Elias Eid  
Eid Car Care  
9650 S. Kirkwood Dr. A-1  
Houston, TX 77099

## **EXHIBIT SUMMARY**

|                  |  |
|------------------|--|
| <b>Exhibit A</b> | Notice of Violations   |
| <b>Exhibit B</b> | Notice to Appear   |
| <b>Exhibit C</b> | Notice of Rights of Appeal   |
| <b>Exhibit D</b> | Copy of Automotive Repair Facility Application/Deed Restriction  |
| <b>Exhibit E</b> | Copy of Certificate of Occupancy   |
| <b>Exhibit F</b> | Copy of DBA/Assumed Name   |
| <b>Exhibit G</b> | Copy of ARF License  |
| <b>Exhibit H</b> | Copies of Inspection Forms and Contact Plus data dated 5/31/12, 11/14/12, 12/18/12, 2/28/13, 10/16/13, 12/5/13, 1/14/14 and 4/7/14 |
| <b>Exhibit I</b> | Photos taken 12/5/13, 1/14/14, & 4/7/14  |
| <b>Exhibit J</b> | Supervisor follow-up dated 2/8/14  |



# CITY OF HOUSTON

## Automotive Board

P. O. Box 3408, Houston, Texas 77253-3408 832/394-4800

FAX 832/394-4801

**Annise Parker, Mayor**

MEMBERS: Shelly Richardson, Erma Palmer, Mazen Allaham, Benjamin Sanchez, Owen Wang, Tim Straney,

CHAIRMAN: Ken Ulmer, SENIOR ASSISTANT CITY ATTORNEY: Tracey Calabrese, SECRETARY: Lieutenant D. F. Hitzman

Mr. Elias Eid  
Eid Car Care  
9650 S. Kirkwood Dr. A-1.  
Houston, Texas 77099

I, the undersigned, hereby acknowledge receipt of a notice to appear before the City of Houston Automotive Board on Tuesday, April 8<sup>th</sup>, 2014 at 10:00 a.m. at the Houston Permitting Center, 1002 Washington Ave. (basement level), Houston, Texas 77002.

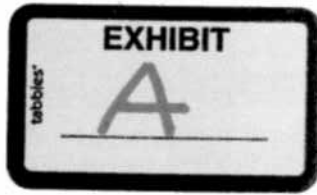
This notice is in regards to a hearing on Automotive Repair Facility license #101835 for Eid Car Care located at 9650 S. Kirkwood Dr. A-1, and was hand delivered to me by a representative of the Houston Police Department Auto Dealers Detail.

EID ELIAS  
Signature

[Signature]  
Officer's Signature

3-26-14  
Date





# CITY OF HOUSTON

## Automotive Board

P. O. Box 3408, Houston, Texas 77253-3408 832/394-4800

FAX 832/394-4801

**Annise Parker, Mayor**

MEMBERS: Shelly Richardson, Erma Palmer, Mazen Allaham, Benjamin Sanchez, Owen Wang, Tim Straney,

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Mr. Elias Eid  
Eid Car Care  
9650 S. Kirkwood Dr. A-1.  
Houston, Texas 77099

I, the undersigned, hereby acknowledge receipt of a notice to appear before the City of Houston Automotive Board on Tuesday, July 8<sup>th</sup>, 2014 at 9:00 a.m. at the Houston Permitting Center, 1002 Washington Ave. (basement level), Houston, Texas 77002.

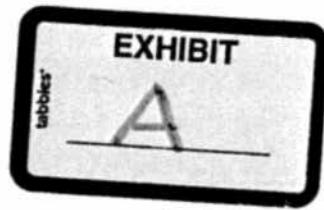
This notice is in regards to a hearing on Automotive Repair Facility license #101835 for Eid Car Care located at 9650 S. Kirkwood Dr. A-1, and was hand delivered to me by a representative of the Houston Police Department Auto Dealers Detail.

Signature

Officer's Signature

Date





# CITY OF HOUSTON

**Automotive Board**

P. O. Box 3408, Houston, Texas 77253-3408 832/394-4800

FAX 832/394-4801

**Annise Parker, Mayor**

MEMBERS: Jerry Sutton, Ryan Winkelmann, Shelly Richardson, Erma Palmer, Mazen Allaham, Benjamin Sanchez, Owen Wang, Tim Straney,  
CHAIRMAN: Ken W. Ulmer, SENIOR ASSISTANT CITY ATTORNEY: Tracy Calabrese, SECRETARY: Lieutenant D. F. Hitzman

## NOTICE OF VIOLATION

March 24<sup>th</sup>, 2014

Mr. Elias Eid  
Eid Car Care  
9650 S. Kirkwood Dr. A-1  
Houston, Texas 77099

Dear Mr. Eid:

This letter is to inform you that you are requested to appear before the City of Houston Automotive Board, on Tuesday, April 8th, 2014, at 10.00 a.m. at the Houston Permitting Center, 1002 Washington Ave. (basement level), Houston, Texas 77002.

At this meeting, the Houston Police Department is asking that your Automotive Repair Facility license #101835 for Eid Car Care, located at 9650 S. Kirkwood Dr. A-1, be revoked for 2014, renewal thereof denied, or in the alternative that your license be suspended for the below listed violations of the Code of Ordinances, Houston, Texas.

**Violation #1:** On February 28, 2013, December 5, 2013, January 14, 2014, and February 8, 2014, your business was inspected and found to be in violation of Section 8-30(d), which states:

*"Fencing wall requirements. Each area utilized for the keeping or storing of used automotive parts and/or used accessories by an automotive business dealing in used parts and used accessories or each area that is utilized for the keeping, storing, dismantling, cutting up, stripping or otherwise wrecking of any discarded, abandoned, junked, wrecked or otherwise disabled automotive vehicles upon any automobile wrecking and salvage yard or any automotive repair facility within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:*

- (1) *Any side of such yard which extends generally parallel to, and within one hundred (100) feet of any public street right-of-way shall be bound by a solid fence or wall at least eight feet in height.*
- (2) *All sides of such yard not included in (d)(1) above shall be bounded by a solid fence or wall at least six feet in height.*



On these dates, officers found your business was not completely surrounded and enclosed by a solid fence.

**Violation #2:** On May 31, 2012, November 14<sup>th</sup>, 2012, October 16<sup>th</sup>, 2013, December 5<sup>th</sup>, 2013, and January 14<sup>th</sup>, 2014, your business was inspected and found to be in in violation of Section 8-30 (i)(2), which states:

*"All automotive vehicles, parts and materials stored in any automotive wrecking and salvage yard, automotive repair facility, or automotive business dealing in used parts and used accessories must be stored at least six (6) inches above the surface of the yard. A motor vehicle stored in its normal upright position shall be deemed to be stored in compliance with the foregoing requirement if all portions of the body floor plan of the vehicle are situated at least six (6) inches above the lot surface, regardless of the height of wheels, tires, brake components, axles and suspension components that are attached in their normal manner to the vehicle and regardless of the height of wheels, tires or other devices used to elevate the vehicle."*

On these dates, officers found several vehicle parts scattered on the ground throughout the business. These parts were not elevated (6) inches from the surface.

**Violation #3:** On May 31<sup>st</sup>, 2012, your business was inspected and found to be in violation of Section 8-30(j), which states:

*"It shall be unlawful for the owner or operator of an automotive wrecking and salvage yard, automotive repair facility or automotive business dealing in used parts and used accessories to allow grass or other vegetation to grow to a height of more than nine (9) inches above the ground."*

On this date, officer found several areas on the property that had grass and weeds in excess of (9) inches above the ground.

**Violation #4:** On May 31<sup>st</sup>, 2012, February 28<sup>th</sup>, 2013, and January 14<sup>th</sup>, 2014, your business was inspected and found to be in violation of Section 8-30 (l) which states:

*"Compliance with regulations and ordinances. All automotive wrecking and salvage yards, and all automotive repair facilities and all automotive businesses dealing in used parts and used accessories must at all times be in full compliance with all city ordinances regarding health and safety, including specifically without limitation, all requirements of the Fire Code."*

On these dates, officers found the location in violation of the following codes:

*"Sec. 2305.003. Register of Repairs. (a) A person subject to this subchapter shall maintain a register of each repair the person makes to a motor vehicle. The register must contain a substantially complete and accurate description of each motor vehicle that is repaired."*

March 6, 2014

*(b) This section does not apply to a repair having a value of \$1 or less."*

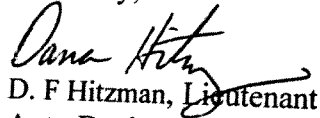
*"Sec. 2305.006. Maintenance of Records. (a) All records required to be maintained under this subchapter shall be kept until at least the first anniversary of the date the record is made.*

*(b) The registers required by Sections 2305.003 and 2305.004 shall be maintained in a clear and intelligent manner in a well-bound book or an electronic record keeping system and kept in a secure place in the office or place of business where the work is performed or the business is conducted."*

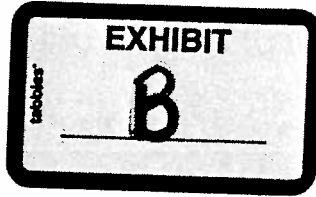
On these dates, officers observed that your business failed to maintain documentation on the vehicles being repaired in your place of business.

Your right to appeal the decision of the Automotive Board is summarized in the "Rights of Appeal" letter" issued to you and dated March 25<sup>th</sup>, 2014.

Sincerely,

  
D. F Hitzman, Lieutenant  
Auto Dealers Detail

DFH/rys



# CITY OF HOUSTON

**Automotive Board**

P. O. Box 3408, Houston, Texas 77253-3408 832/394-4800

FAX 832/394-4801

**Annise Parker, Mayor**

MEMBERS: Shelly Richardson, Erma Palmer, Mazen Allaham, Benjamin Sanchez, Owen Wang, Tim Straney,

CHAIRMAN: Ken Ulmer, SENIOR ASSISTANT CITY ATTORNEY: Tracey Calabrese, SECRETARY: Lieutenant D. F. Hitzman

## NOTICE TO APPEAR

March 25<sup>th</sup>, 2014

Mr. Elis Eid  
Eid Car Care  
9650 S. Kirkwood Dr. A-1  
Houston, Texas 77099

Dear Mr. Eid:

This letter is to inform you that you are requested to appear before the City of Houston Automotive Board, on Tuesday, April 8<sup>th</sup>, 2014 at 10.00 a.m. at the Houston Permitting Center, 1002 Washington Ave. (basement level), Houston, Texas 77002.

At this meeting, the Houston Police Department is asking that your Automotive Repair Facility license #101835, Eid Car Care, located at 9650 S. Kirkwood Dr. A-1, be revoked for 2014, renewal there of denied, or the alternative that your license be suspended.

This action is based on the "Notice of Violation" letter issued to you and dated March 25<sup>th</sup>, 2014. The facts surrounding the listed violation will be presented to the Automotive Board for their consideration at the above hearing. Following the presentation of the violation, you will be allowed to present your defense. Should you fail to appear, the Automotive Board will render their decision based on the presentation of the violation.

Your right to appeal the decision of the Automotive Board is summarized in the "Rights of Appeal" letter" issued to you and dated March 25<sup>th</sup>, 2014.

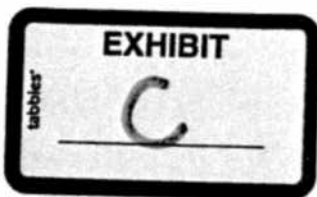
Sincerely,

D. F. Hitzman, Secretary  
Houston Automotive Board

DFH/rys  
Hand Delivered







# CITY OF HOUSTON

**Automotive Board**

P. O. Box 3408, Houston, Texas 77253-3408 832/394-4800

FAX 832/394-4801

**Annise Parker, Mayor**

MEMBERS: Shelly Richardson, Erma Palmer, Mazen Allaham, Benjamin Sanchez, Owen Wang, Tim Straney,

CHAIRMAN: Ken Ulmer, SENIOR ASSISTANT CITY ATTORNEY: Tracey Calabrese, SECRETARY: Lieutenant D. F. Hitzman

## NOTICE OF RIGHTS OF APPEAL

March 25<sup>th</sup>, 2014

Mr. Elis Eid  
9650 S. Kirkwood Dr. A-1  
Houston, Texas 77099

Dear Mr. Eid:

Section 8-66 of the Code of Ordinances, Houston, Texas, allows you to appeal a decision of the Automotive Board to City Council. As Chairman of the Automotive Board, it is my duty to inform you of the following requirements for such an appeal:

- 1) A certified court reporter is required to prepare a record in order for there to be an appeal to the City Council.
- 2) You must request, in writing, the presence of your certified court reporter at the hearing not less than twenty-four (24) hours prior to the hearing.
- 3) You must agree to pay all costs of the certified court reporter, including preparation of transcripts for appeals to City Council.

For a complete explanation of your right to appeal, please read Section 8-66 and Section 2-2, Rule 12, of the Code of Ordinances, Houston, Texas.

Please send a copy of your written request for the presence of a certified court reporter to the Auto Dealers Detail, P.O. Box 3408, Houston, Texas 77253-3408.

If you have any questions concerning this matter, please call Lieutenant D. F. Hitzman at (832) 394-4800. Lieutenant Hitzman is the Secretary to the Automotive Board.

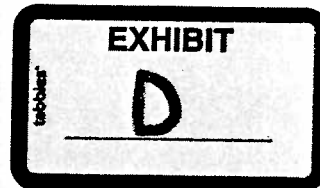
Sincerely,

Ken Ulmer, Chairman  
Houston Automotive Board





**CITY OF HOUSTON**  
**APPLICATION FOR LICENSE TO DEAL IN**  
**MOTOR VEHICLES, TRAILERS, MOTOR VEHICLE PARTS AND ACCESSORIES**  
 (Print or type all information)



Application is hereby made to you for a/an ARE License (See back for proper license name), and, in this behalf the following is made:

1. BUSINESS NAME EID car care  
(Attach copy of assumed name certificate.)
2. ADDRESS OF BUSINESS 96503 Kirkwood, Suite A-2 ZIP CODE 77099  
 MAILING ADDRESS same 96503 Kirkwood # A-1 ZIP CODE 77099
3. Date business began at this location 9-1-11 PHONE # 281-575-8568
4. Applicant is ☒ owner ( ) lease holder of property? If lease holder, give name/s and address/es of person/s from whom you are leasing:  
(Attach to this application a copy of the lease agreement or property deed, an engineered survey, and legal description of the property.)
5. If application is for an Automotive Storage Lot or Salvage Yard License, is your business property line within three hundred feet (300') of the property line of a church, school or residence? Yes ( ) or No ( ) N/A
6. IF SOLE OWNER, LIST BELOW. IF PARTNERSHIP, LIST NAMES OF ALL PARTNERS; IF CORPORATION, LIST NAMES AND TITLES OF THE OFFICERS OF THE CORPORATION; IF MARRIED, GIVE NAME OF SPOUSE. (Attach copy of corporate or partnership agreement.)

**IMPORTANT! PLEASE FILL IN ALL REQUIRED INFORMATION**

- A. FULL NAME EID HAS ELIAS TDL # 14672271 SS# 071-76-6855  
 HOME ADDRESS 7038 Clustering Oak CT PHONE # 832-633-5725  
 RACE W SEX M HEIGHT 5-5 WEIGHT 190 DOB 05-2-64 PLACE OF BIRTH Amman, Jordan
- B. FULL NAME \_\_\_\_\_ TDL # \_\_\_\_\_ SS# \_\_\_\_\_  
 HOME ADDRESS \_\_\_\_\_ PHONE # \_\_\_\_\_  
 RACE \_\_\_\_\_ SEX \_\_\_\_\_ HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_ DOB \_\_\_\_\_ PLACE OF BIRTH \_\_\_\_\_
- C. FULL NAME \_\_\_\_\_ TDL # \_\_\_\_\_ SS# \_\_\_\_\_  
 HOME ADDRESS \_\_\_\_\_ PHONE # \_\_\_\_\_  
 RACE \_\_\_\_\_ SEX \_\_\_\_\_ HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_ DOB \_\_\_\_\_ PLACE OF BIRTH \_\_\_\_\_

- E 7. Has/have Applicant/s been in jail or prison for conviction/s within the last seven (7) years? Yes ( ) No ☒  
Initialed If "yes", which applicant/s? \_\_\_\_\_
- E 8. Has/have Applicant/s been convicted within the past seven (7) years of Felony/ies or Misdemeanor/s, include DWI, but not traffic? Yes ( ) No ☒  
Initialed If "yes", for what, where and when: \_\_\_\_\_
- E 9. Has/have Applicant/s received probation/parole for any of the above convictions? Yes ( ) No ☒ If "yes", explain: \_\_\_\_\_  
Initialed \_\_\_\_\_
- E 10. Are you in compliance with all deed restrictions that apply to your business address? Yes ☒ No ( )  
Initialed (Attach copy of city occupancy permit.)
- E 11. Previous business occupation/s for the past five years (Company, Location and Type): willcrest auto center  
Initialed Houston TX
- E 12. I understand that this application is an official government record. I understand that knowingly making a false entry or omitting required information  
Initialed in one or more of the above fields could result in criminal charges and the denial/revocation of my license.

Date Application Made 8-31-11 (X) EID ELIAS  
 Signature & Title

(X) \_\_\_\_\_  
 Signature & Title

State of Texas  
 County of Harris

Eid Elias, personally appeared before me, and being first duly sworn declared that he/she signed this application in the capacity designated, if any, and further swears that he/she has read the above application and the statements therein contained are true.

Subscribed and sworn to before me this 31st day of August 20 11  
ANNON  
 Notary Public

THE STATE OF TEXAS

COUNTY OF HARRIS

Deed Restriction and Law Compliance Affidavit

Before me the undersigned authority on this day personally appeared

EID HAS EISAS

(type or legibly print name of affiant)

who being first duly sworn by me deposed and said:

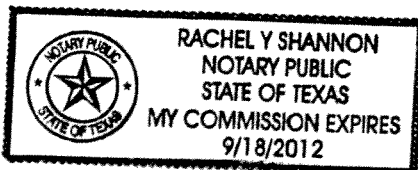
I understand and agree that it is my responsibility to comply with all deed restrictions and city, state, and federal laws, regulations or ordinances concerning any activity authorized by the license, permit, or certificate, requested in the application to which this affidavit appertains and concerning any land or place where such activities may be conducted.

I also understand and agree that the City of Houston by issuing the license, permit or certificate for which I am applying does not excuse or approve of any violation of deed restrictions, or of city, state, or federal laws, regulations or ordinances and that the license, permit, or certificate will be void in the event that it is used in violation thereof.

I fully understand that if the permit, license or certificate for which I applying is issued, the City of Houston or any other appropriate entity may institute legal proceedings against me if I violate any deed restriction, or any city, state or federal law, regulation or ordinance.

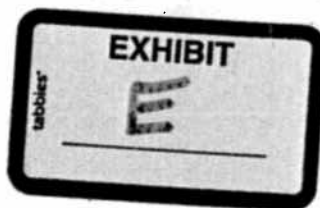
To the extent that this affidavit is made on behalf of a corporation or for the benefit of any persons other than myself, I certify that I have fully advised them of the extent of this affidavit and that I am duly authorized to execute the same as the act and deed of the applicant or persons.

To certify which, witness my hand and seal of office this 31<sup>st</sup> day of August, 20  .



Rachel Y Shannon  
Notary Public in and for  
the State of Texas

My Commission expires:



C E R T I F I C A T E   O F   O C C U P A N C Y

Owner or Occupant: **AUTO MECHANIC**

This Certificate of Occupancy must be posted in a conspicuous place on the premises and authorizes the Building(s) or Structure(s) to be occupied at:

|            |               |       |     |       |
|------------|---------------|-------|-----|-------|
| 7600       | S KIRKWOOD ST | BLD 1 |     |       |
| street no. | street name   | suite | lot | block |

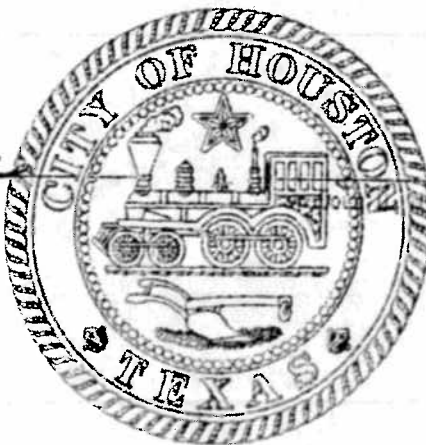
**CONVERT RETAIL TO AUTO MECHANIC LEASE**

|  |               |          |      |      |              |
|--|---------------|----------|------|------|--------------|
|  | occupancy use |          |      |      | occ. load    |
|  |               | 08/03/94 | 2    | BL   |              |
|  | subdivision   | stories  | date | type | group rating |

The work listed hereon has been duly inspected and found to comply with all of the City of Houston Building Code requirements for the occupancy group and use shown. This Certificate covers ONLY the work described above; therefore other portions of the building may not have been inspected and may not (and are not required to) comply with all portions of the City of Houston Building Code. THIS CERTIFICATE DOES NOT CERTIFY COMPLIANCE WITH THE 'AMERICANS WITH DISABILITIES' ACT.

Project Number: 74811262  
File number:

*Jama Medina*  
Prepared by MEDINA



*W. J. Franklin*  
Illana, Building Official 08/03/94

# City of Houston Department of Public Works & Engineering Code Enforcement

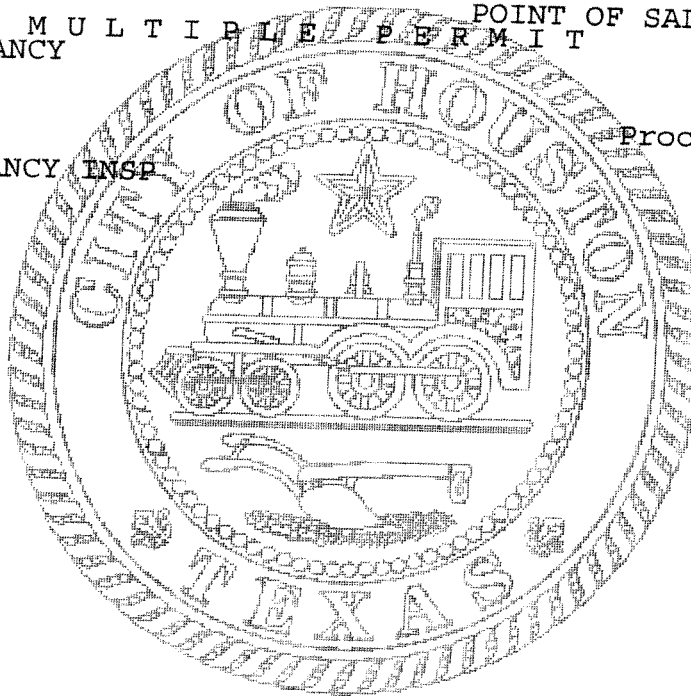
Applicant, by the making execution and submitting of application to the Public Works & Engineering Department of the City of Houston, Texas represents and warrants that the proposed construction described in said application is not in violation of or contrary to any deed restriction or covenant running with the land relating to the addition or subdivision, if any, in which the herein described lot, tract or parcel of land is situated.

The applicant further represents and warrants to the City of Houston, Texas and to the property owners lying and situated within the addition or subdivision in which the herein tract of land is situated, that such application, and the erection of the herein described construction and the eventual use thereof will not be used for any purpose which is prohibited by the deed restrictions or covenants running with the land within such subdivision or addition.

Applicant accepts this building permit subject to the foregoing representation and warranties and agrees that if such construction or use be in violation of any deed restrictions or covenants running with the land that such building permit shall automatically become void and of no effect without the necessity of any action on the part of the City of Houston, Texas or any property owner.

|   |                          |                               |                   |                                  |                   |                                |                  |
|---|--------------------------|-------------------------------|-------------------|----------------------------------|-------------------|--------------------------------|------------------|
| Date<br><b>24-SEP-2013</b>  |                          | Receipt No.<br><b>5483857</b> |                   | Proj. Type<br><b>REMDL</b>       |                   | Project No.<br><b>13096870</b> |                  |
| Occupant<br><b>*EID CAR CARE</b>                                    |                          |                               |                   | Sprinklers                       |                   |                                |                  |
| Address<br><b>9650 S KIRKWOOD RD</b>                                |                          |                               |                   | Space % Type<br><b>BLDA1 - -</b> |                   |                                |                  |
| City<br><b>HOUSTON</b>  | Zip Code<br><b>77099</b> | County<br><b>HARRIS</b>       | Bldgs<br><b>1</b> | Units<br><b>1</b>                | Story<br><b>1</b> | Occ. Gp<br><b>2</b>            | Zone<br><b>-</b> |
| Contractor<br><b>*EID CAR CARE</b>                                  |                          |                               |                   | Lic. No.                         |                   | Phone<br><b>2815758568</b>     |                  |
| Applicant   |                          |                               |                   | Lic. No.                         |                   | Phone                          |                  |
| Use<br><b>DUP/CONVERT RETAIL TO AUTO MECHANIC LEASE 1200/940115</b> |                          |                               |                   |                                  |                   |                                |                  |

|                               |                             |                       |
|-------------------------------|-----------------------------|-----------------------|
| CERTIFICATE OF OCCUPANCY      | M U L T I P L E P E R M I T | POINT OF SALE 0046398 |
|                               |                             | \$100.42              |
|                               |                             | TOTAL FEE 26.42       |
|                               |                             | Permit Fee .00        |
|                               |                             | Processing Fee 26.42  |
| *OB*B2 1 STORY OCCUPANCY INSP |                             | TOTAL FEE 74.00       |
|                               |                             | Permit Fee 74.00      |
| 1 REQ FOR DUPE                |                             | 74.00                 |



Please participate in this survey <http://www.research.net/s/HWVR7J6>

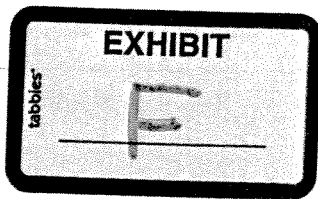
**POST THIS PERMIT AT JOB LOCATION**

OR INSPECTION CALL:

|                        |              |
|------------------------|--------------|
| Building Inspections   | 832-394-8840 |
| Electrical Inspections | 832-394-8860 |
| Boiler A/C Inspections | 832-394-8850 |
| Mobile Homes           | 832-394-8842 |
| Sign Administration    | 832-394-8890 |

|                          |              |
|--------------------------|--------------|
| Occupancy Inspection     | 832-394-8880 |
| Utility Release          | 832-394-8847 |
| Plumbing Inspection      | 832-394-8870 |
| Plan Review              | 832-394-8810 |
| Interactive Voice System | 713-222-9922 |

Inspection must be called within 180 days of purchase or this permit will lapse. After 360 days of purchase a new permit may be required per section 15.5 of the Building Code, or the expiration date specified on the Permit or Report. Any structural work authorized by this permit is issued based on an affidavit stating that the work above does not violate any applicable deed restrictions, or supercede any orders issued by the D. B. Hearing Office.



OFFICE OF  
STAN STANART  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

B494316  
05/23/2011 CHIMNEYROCK  
\$16.00 ASSUMED

This is to acknowledge receipt of certificate of operation under Assumed Name which was filed in my office for

EID CAR CARE

under the file number as shown on the cash register validation above, and indexed in the Assumed Name Records as prescribed by law.

The certificate shows

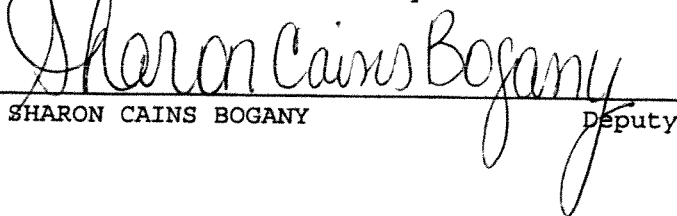
01. ELIAS, EID HAJ

to be the owner(s) of said business.

The period (not to exceed 10 years) during which the assumed name will be used is shown as MAY 23, 2011 through MAY 23, 2021.

Whenever there is a change of ownership, a withdrawal certificate shall be executed and duly acknowledged by the person or persons so withdrawing from or disposing of their interest in said business. Until such certificate has been filed, they shall remain liable for all debts incurred in the operation of said business.

Stan Stanart  
County Clerk, Harris County

  
SHARON CAINS BOGANY Deputy

CITY OF HOUSTON, TEXAS

CITY LICENSE

NO. 1018350914

\$ 470.00

RENEWAL

IN ACCORDANCE WITH THE CODE OF ORDINANCES, HOUSTON, TEXAS, A LICENSE IS  
HEREBY GRANTED FOR THE PERIOD OF 09/24/13 TO 09/30/14 TO:

EID CAR CARE

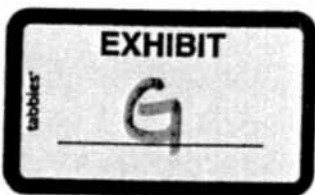
DBA: 09650 S KIRKWOOD DR A-1  
9650 S KIRKWOOD DR  
HOUSTON, TX 77099

TO PURSUE THE OCCUPATION OF: AUTOMOTIVE REPAIR FACILITY

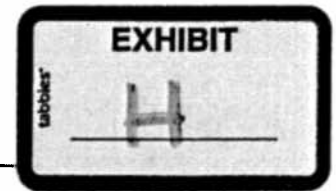
WITHIN THE CORPORATE LIMITS OF THE CITY OF HOUSTON. THE ISSUANCE OF THIS  
PERMIT, LICENSE OR CERTIFICATE DOES NOT CONSTITUTE APPROVAL BY THE CITY OF  
HOUSTON FOR THE VIOLATION OF ANY DEED RESTRICTION, OR ANY CITY, STATE AND  
FEDERAL LAWS, REGULATIONS, OR ORDINANCES. EACH HOLDER AND OTHER PERSON  
ACTING UNDER AUTHORITY OF THIS PERMIT, LICENSE OR CERTIFICATE IS PERSONALLY  
RESPONSIBLE FOR COMPLYING WITH THE DEED RESTRICTIONS AND CITY, STATE AND  
FEDERAL LAWS RELATING TO THE ACTIVITY CONTEMPLATED BY THIS PERMIT, LICENSE  
OR CERTIFICATE.

C. A. MCCLELLAND, CHIEF OF POLICE  
BY AIDE G DURAN

2014 (POST CONSPICUOUSLY)



## Notes for: Eid Elias of Eid Car Care



| <u>Date</u> | <u>Time</u> | <u>Who</u> | <u>Memo</u> |
|-------------|-------------|------------|-------------|
| 5/31/2012   | 10:25 AM    | RS         |             |

Business Inspected: Follow up Inspection: ON THIS DATE AND THE FOLLOWING VIOLATIONS WERE NOTED:

AUTOMOTIVE PARTS ON THE SURFACE OF THE YARD  
HIGH WEEDS IN EXCESS OF 91 INCHES  
FAIL TO MAINTAIN ACCURATE RECORDS

THE OWNER HAVE BEEN WARNED IN THE PAST ABOUT THE EXCESSIVE AMOUNT OF VEHICLES PARKED AT HIS BUSINESS, IN THE FRONT AND THE REAR. IT WAS ALSO NOTED THAT THE VEHICLES BEING REPAIRED INSIDE THE GARAGE (7), ONLY 2 HAVE A WORK ORDER. OWNER HAD WORK ORDERS ALL OVER THE PLACE AND MANY WERE NO PROPERLY COMPLETED.

A THIRD INSPECTION WILL BE CONDUCTED.



## Notes for: Eid Elias of Eid Car Care

| Date       | Time    | Who | Memo   |
|------------|---------|-----|--|
| 11/14/2012 | 3:40 PM | RS  | <p>Follow up Inspection: ON THIS DATE AND IT WAS NOTED THAT THE PLACE WAS IN TERRIBLE SHAPE. VEHICLES PARKED ALL OVER THE STRIP CENTER THAT WERE BEING REPAIRED BY THE OWNER. AUTOMOTIVE PARTS ALL OVER THE REAR OF THE BUSINESS ALONG WITH OIL CONTAINERS ON THE GROUND THAT WERE COMPLETELY FULL OF OLD OIL FILTERS. THIS IS THE SECOND WARNING. CITATIONS WILL BE ISSUED FOR ANY VIOLATIONS NOTED ON NEXT INSPECTION.</p> <p>OWNER STATED THAT HE WILL BE MOVING DUE TO NOT HAVING ENOUGH SPACE AT THIS LOCATION.</p> |

## Notes for: Eid Elias of Eid Car Care

| Date       | Time     | Who | Memo  |
|------------|----------|-----|---|
| 12/18/2012 | 12:40 PM | RS  | <p>Follow up Inspection: ON THIS DATE AND IT WAS NOTED THAT THE OWNER HAVE REMOVED SEVERAL VEHICLES, HOWEVER, THERE ARE MORE THERE NOT BEHIND A SOLID FENCE AND HAVE BEEN THERE FOR MORE THAN 30 DAYS. IT WAS ALSO NOTED THAT IN THE REAR, OIL CONTAINERS ARE ON THE GROUND AND OIL RESIDUE IS AROUND THE BASE OF THE BARRELS.</p> <p>WILL RETURN. OWNER WAS WARNED THAT CITATIONS WILL BE ISSUED IF NOT IN COMPLIANCE.</p> |

## Notes for: Eid Elias of Eid Car Care

| Date      | Time    | Who | Memo  |
|-----------|---------|-----|---|
| 2/28/2013 | 1:05 PM | RS  | <p>Follow up Inspection: ON THIS DATE AND THE OWNER WAS WRITTEN THE FOLLOWING CITAITONS:</p> <p>CC229- FAILURE TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE REPAIRS<br/>CC239- AREA TO STORE DISABLE VEHICLES AT REPAIR FACILITY WITH OUT A FENCE<br/>CC241- OPERATE AN AUTO REPAIR FACILITY WITH OUT A SOLID GATE</p> <p>CITATION #N26414412</p> |

## Notes for: Eid Elias of Eid Car Care

| Date       | Time     | Who | Memo   |
|------------|----------|-----|--|
| 10/16/2013 | 12:55 PM | LMV | <p>This business has a ARF which expires 09/14. During my inspection I spoke with Eid the owner. I noted that the business has numerous repair vehicles parked on the street, AUTOMOTIVE PARTS ON THE SERVICE OF THE YARD, OIL/TRANSMISSION/FLUIDS SPILLED IN THE PARKING LOT AND STREET, RAT HARBORAGE, ILLEGAL DUMPING OF TRASH and OPEN STORAGE OF TIRES.</p> <p>I explained to the owner that I received a complaint about his business and the violations needed to be fixed. He assured me he would fix the problems. He also explained he was planning to move from the location and he showed me the land survey of the property he was planning to move too.</p> <p>I explained I would give the business 30 days to fix the problems that were noted on the inspection form.</p> <p>I received a complaint regarding this business from a DRT Officer from Westside Command Station via email.</p> |

Houston Police Department  
Auto Dealers Detail  
Inspection Form

Facility Name: ED CAR CARE Date 10-16-13 Day WED Time: 1255 Hours  
Owner/Agent/Manager: ED LUISAS TDL#: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Address: 9650 S. KIRKWOOD Houston, Texas, Zip Code: \_\_\_\_\_  
Phone # 281 575 8568 City of Houston License # 101835 Type of License: ART

An inspection was made on this date by a Police Officer with the Houston Police Department. The following violation(s) of the City of Houston code of ordinances and Statues of the State of Texas were identified.

LICENSE REQUIREMNET

- ☐ No Certificate of Occupancy/Sec 103.2.1.1.9/2501.16.1
- ☐ Failure to post Certificate of Occupancy/307e
- ☐ No Automotive Rebuilder & Dismantler License/Sec 8-51
- ☐ No Automotive Repair Facility License/Sec 8-51
- ☐ No Retail Supply Dealer License/Sec 8-51
- ☐ No Motor Vehicle Dealer License/Sec 8-51
- ☐ No Automotive Parts Rebuilder License/Sec 8-51
- ☐ No Used Parts & Used Accessory Dealer License/Sec 8-51
- ☐ No Storage Lot License/Sec 8-51
- ☐ Engaged in business other than that specifically licensed/Sec 8-64
- ☐ Salesman without a sales person license/Sec 8-81
- ☐ Allow a salesperson to work without a salespersons license/Sec 8-81
- ☐ Failure to post salesperson license/Sec 8-81
- ☐ Operating a storage lot/salvage yard within 300 ft of a church, school or residence/Sec 28-34

AUTO REPAIR FACILITY/SALVAGE YARD REQUIREMENTS

- ☒ Automotive parts on the surface of the yard/Sec 8-30(i)(2)
- ☐ No all weather surface/Sec 8-30(m)
- ☐ High weeds in excess of 9 inches/Sec 8-30(j)
- ☐ Fail to construct or maintain a solid fence/Sec 8-30(d)
- ☐ Salvage vehicles stored outside or over fence/Sec 8-30(h)
- ☐ Repair vehicles held over 30 days not behind solid fence/Sec 8-30(o)
- ☐ Fail to construct or maintain a gate/Sec 8-30
- ☐ Fail to maintain accurate records/Sec 8-26(a)(b)(c)(d)
- ☐ Fail to remove flammable liquids from vehicles/Sec 8-30(c)
- ☐ Fail to make vehicles available for inspection (stacking)/Sec 8-30(i)(l)
- ☐ Use of "disassembly area" without an approved plat/Sec 8-30(i)(3)

MOTOR VEHICLE SALES REQUIREMENTS

- ☐ Display motor vehicle for sale on city right of way/Sec 45-111(1)
- ☐ Display motor vehicle for sale on a public street/private property/10-432

FACILITY REQUIREMENTS

- ☒ Illegal dumping (trash & debris)/Sec 10-341(e)
- ☒ Rat harborage/Sec 10-483
- ☐ Allow stagnate water to remain on property/Sec 10-451(b)(11)
- ☐ Open storage of tires (exposed to the elements)/Sec 21-183

STATE OF TEXAS LICENSING REQUIREMENTS

- ☐ No State salvage vehicle dealer license/Occupation Code 2302
- ☐ No used vehicle parts dealer endorsement/Occupation Code 2302
- ☐ No salvage vehicle rebuilder endorsement/Occupation Code 2302
- ☐ No salvage vehicle dealer agent's license/Occupation Code 2302
- ☐ No State salvage vehicle record/Occupation Code 2302
- ☐ No State salvage inventory records (parts & vehicles)/Occupation code 2302
- ☐ No General Distinguishing Number (car dealer)/Trans Code 503.021

ENVIRONMENTAL VIOLATIONS

- ☐ Illegal disposal of hazardous waste (lead)/Water Code, Chapter 7, Sec 7.162
- ☐ Used oil dumping/Water Code, Chapter 7, Sec 7.176
- ☐ Storage of batteries on the ground/Water Code, Chapter 7, Sec 7.185
- ☐ Accumulation of objectionable materials to wit: \_\_\_\_\_  
(oil, transmission fluid, etc)/Sec 10-451(b)(10)
- ☐ No class 3 flammable liquid permit (over 25 gal. in /60 gal out (oil) (Sec 105.p.3.3)
- ☐ No diking for above ground storage tank/Sec 7901.8.1/7902.2.8.1

The business is also subject to MISDEMEANOR / FELONY charges being filed due to any ENVIRONMENTAL violations. The violation(s) must be corrected by the officer's next inspection. Failure to correct the violation(s) may result in the issuance of Municipal Court Citations and/or the business license being SUSPENDED or REVOKED until the violations are corrected.

Inspecting Officer(s): V. A. HAY  
1002 Washington Avenue, Basement Houston, Texas 77002  
Comments:

Telephone #: 832-394-4800  
H.P.D. Case #: \_\_\_\_\_ ☐ New ☐ Supplement

REMOVE ALL VEHICLES FROM STREET  
30 DAYS TO CORRECT NOTED ISSUES  
EXPIRES 09/14

Signature of Business Owner /Agent / Manager: X

## Notes for: Eid Elias of Eid Car Care

| Date      | Time    | Who | Memo  |
|-----------|---------|-----|---|
| 12/5/2013 | 1:30 PM | LMV | <p>This business has a ARF which expires 09/14. During my inspection I spoke with the owner Eid. This business has had numerous complaints from citizens to Westside DRT via Officer M. Prause who then contacted AUTO DEALERS DETAIL for assistance.</p> <p>On 10/16/13 I went out to the location and conducted a inspection and found numerous violations. I asked that the violations be fixed and noted I would return to the location to check the progress. Before my visit to the location Officer R. Shannon inspected the location on 02/28/13 and noted several violation and issued citations.</p> <p>On 12/05/13 I returned to the location and found the following violations:</p> <p>AUTOMOTIVE PARTS ON THE SURFACE OF THE YARD/SEC 8-30(i) (2)</p> <p>ILLEGAL DUMPING (TRASH &amp; DEBRIS)/SEC 10-341 (e)</p> <p>ILLEGAL DISPOSAL OF HAZARDOUS WASTE (lead)/WATER CODE, CHAPTER 7, SEC 7.62</p> <p>USED OIL DUMPING/WATER CODE, CHAPTER 7, SEC 7.176</p> <p>STORAGE OF BATTERIES ON THE GROUND/WATER CODE, CHAPTER 7, SEC 7.185</p> <p>In addition to the noted violations I issued Mr. Eid Elias 6 citations N27644705 &amp; N27644705 for the following violations.</p> <p>CC 990 REPAIRING AUTO ON STREET</p> <p>FR 217 STORE OILY RAGS IN CONTAINER</p> <p>CC 241 OPERATE AN AUTOMOTIVE REPAIR FACILITY WITHOUT A SOLID FENCE</p> <p>CC 268 STORING A MOTOR VEHICLE WITHOUT CURRENT TEXAS REGISTRATION AND VEHICLE INSPECTION STICKER</p> <p>CC 393 FAILURE AS A OCCUPANT TO KEEP PREMISES FREE FROM (RUBBISH) (GARBAGE) (DISCARDED AUTOMOTIVE PARTS, PAPER, PLASTIC CONTAINERS THAT AUTO PARTS COME IN)</p> <p>CC 229 FAILURE TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE REPAIR FACILITY</p> <p>I explained to Mr. Elias that the issues were not addressed any of the previous times he was inspected. In fact their are more vehicles spread across the shopping center parking lot, street and adjacent property across the street to the South. I also informed him that I planned to return to the location in approximately 1 week to see if any progress was made on the clean up of the business.</p> <p>In addition I took approximately 30 photos of numerous violations.</p> |

**Houston Police Department  
Auto Dealers Detail  
Inspection Form**

Facility Name: EED'S CAR CARE Date 12-05-13 Day THUR Time: 1330 Hours  
Owner/Agent/Manager: ELIAS, EED TDL#: 14672271 Date of Birth: 05-02-64  
Address: 9650 S. KIRKWOOD A-1 Houston, Texas, Zip Code: \_\_\_\_\_  
Phone # 281-575-8568 City of Houston License # 101835 Type of License: ARE

An inspection was made on this date by a Police Officer with the Houston Police Department. The following violation(s) of the City of Houston code of ordinances and Statues of the State of Texas were identified.

**LICENSE REQUIREMNET**

- ☐ No Certificate of Occupancy/Sec 103.2.1.1.9/2501.16.1
- ☐ Failure to post Certificate of Occupancy/307e
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**AUTO REPAIR FACILITY/SALVAGE YARD REQUIREMENTS**

- ☒ Automotive parts on the surface of the yard/Sec 8-30(i)(2)
- ☐ No all weather surface/Sec 8-30(m)
- ☐ High weeds in excess of 9 inches/Sec 8-30(j)
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- ☐ Fail to construct or maintain a gate/Sec 8-30
- ☐ Fail to maintain accurate records/Sec 8-26(a)(b)(c)(d)
- ☐ Fail to remove flammable liquids from vehicles/Sec 8-30(c)
- ☐ Fail to make vehicles available for inspection (stacking)/Sec 8-30(i)(l)
- ☐ Use of "disassembly area" without an approved plat/Sec 8-30(i)(3)

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- ☐ Display motor vehicle for sale on a public street/private property/10-432

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- ☒ Illegal dumping (trash & debris)/Sec 10-341(e)
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- ☐ No General Distinguishing Number (car dealer)/Trans Code 503.021

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- ☒ Used oil dumping/Water Code, Chapter 7, Sec 7.176
- ☒ Storage of batteries on the ground/Water Code, Chapter 7, Sec 7.185
- ☐ Accumulation of objectionable materials to wit: \_\_\_\_\_  
(oil, transmission fluid, etc)/Sec 10-451(b)(10)
- ☐ No class 3 flammable liquid permit (over 25 gal. in /60 gal out (oil) (Sec 105.p.3.3)
- ☐ No diking for above ground storage tank/Sec 7901.8.1/7902.2.8.1

The business is also subject to MISDEMEANOR / FELONY charges being filed due to any ENVIRONMENTAL violations. The violation(s) must be corrected by the officer's next inspection. Failure to correct the violation(s) may result in the issuance of Municipal Court Citations and/or the business license being SUSPENDED or REVOKED until the violations are corrected.

Inspecting Officer(s): VAUGHAN  
1002 Washington Avenue, Basement Houston, Texas 77002  
Comments:

Telephone #: 832-394-4800  
H.P.D. Case #: \_\_\_\_\_ ☐ New ☐ Supplement

LICENSE EXPIRES 09/14

6 CITATIONS

Signature of Business Owner /Agent / Manager: EIP ELIAS

## Notes for: Eid Elias of Eid Car Care

| Date      | Time    | Who | Memo  |
|-----------|---------|-----|---|
| 1/14/2014 | 1:00 PM | LMV | <p>This business has a ARF that expires 09/14. During my inspection I spoke with the owner EID. I explained to him that the process has started to take him and his business before the AUTOMOTIVE BOARD to revoke his license. He asked if I wanted to close him down. I explained yes I would close him down if that was the ruling from the board.</p> <p>During my inspection I noted many violations. Almost all of them were the same violations he was found in violation previously. I took photos to assist in the validation of those violations. It appeared that no corrections have been made to fix many of the issues. I also noted numerous violations on the inspection form some of which he was not cited for.</p> <p>Mr., Eid expressed his opinion with profanity saying he was "fucked by his brother and now he being fucked by me". He asked who sent me to the location. I explained to him that no one sent me to the location. I told him he has numerous violations that are in gross violation of many laws. He has also taken up almost the entire East side of the shopping strip. Thier are no available parking spaces for the businesses next door to him. Vehicles are blocking the entrance ways just parked openly in the driveways blocking traffic and not in a designated parking space. Vehicles are being repaired all over the shopping strip not just in the actual business location. Automotive parts, trash, cat feces, oil, transmission fluid and other unknown liquids are spilled inside and outside the business. Incomplete work orders that do not have the VIN, YEAR, DATE, COST OF REPAIR and in some cases what is actually being repaired on the vehicle. Used vehicle parts with no record of where or when they were purchased.</p> <p>The following citations were issued.</p> <p>CC 393 FAILURE AS A OCCUPANT TO KEEP PREMISES FREE FROM RUBBISH (GARBAGE)</p> <p>CC 1355 FAILURE TO PROMPTLY DISPOSE OF CAT FECES</p> <p>CC 71 NO CAT LICENSE</p> <p>CC 229 FAILURE TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE REPAIR FACILITY</p> <p>CC 231 FAILURE TO KEEP RECORDS OF THE PURCHASE OF USED MOTOR VEHICLE PARTS</p> <p>CC 268 STORING A MOTOR VEHICLE WITHOUT CURRENT TEXAS REGISTRATION AND VEHICLE INSPECTION STICKERS</p> <p>CC 241 OPERATE AN AUTOMOTIVE REPAIR FACILITY WITHOUT A SOLID GATE</p> <p>CC 248 FAIL TO STORE AUTOMOTIVE MATERIAL AT LEAST 6 INCH ABOVE SURACE IN AUTO REPAIR FACILITY.</p> |



**Houston Police Department  
Auto Dealers Detail  
Inspection Form**

Facility Name: ETD CAR CARE Date 1-14-14 Day TUES Time: 1:30 Hours  
Owner/Agent/Manager: ETD H ELIAS TDL#: 14672271 Date of Birth: 05-02-64  
Address: 9650 S. KIRKWOOD Houston, Texas, Zip Code: \_\_\_\_\_  
Phone # 281 575-8568 City of Houston License # 101935 Type of License: ARF

An inspection was made on this date by a Police Officer with the Houston Police Department. The following violation(s) of the City of Houston code of ordinances and Statues of the State of Texas were identified.

**LICENSE REQUIREMNET**

- ☐ No Certificate of Occupancy/Sec 103.2.1.1.9/2501.16.1
- ☐ Failure to post Certificate of Occupancy/307e
- ☐ No Automotive Rebuilder & Dismantler License/Sec 8-51
- ☐ No Automotive Repair Facility License/Sec 8-51
- ☐ No Retail Supply Dealer License/Sec 8-51
- ☐ No Motor Vehicle Dealer License/Sec 8-51
- ☐ No Automotive Parts Rebuilder License/Sec 8-51
- ☐ No Used Parts & Used Accessory Dealer License/Sec 8-51
- ☐ No Storage Lot License/Sec 8-51
- ☐ Engaged in business other than that specifically licensed/Sec 8-64
- ☐ Salesman without a sales person license/Sec 8-81
- ☐ Allow a salesperson to work without a salespersons license/Sec 8-81
- ☐ Failure to post salesperson license/Sec 8-81
- ☐ Operating a storage lot/salvage yard within 300 ft of a church, school or residence/Sec 28-34

**AUTO REPAIR FACILITY/SALVAGE YARD REQUIREMENTS**

- ☒ Automotive parts on the surface of the yard/Sec 8-30(i)(2)
- ☐ No all weather surface/Sec 8-30(m)
- ☐ High weeds in excess of 9 inches/Sec 8-30(j)
- ☒ Fail to construct or maintain a solid fence/Sec 8-30(d)
- ☐ Salvage vehicles stored outside or over fence/Sec 8-30(h)
- ☒ Repair vehicles held over 30 days not behind solid fence/Sec 8-30(o)
- ☒ Fail to construct or maintain a gate/Sec 8-30
- ☐ Fail to maintain accurate records/Sec 8-26(a)(b)(c)(d)
- ☒ Fail to remove flammable liquids from vehicles/Sec 8-30(c)
- ☐ Fail to make vehicles available for inspection (stacking)/Sec 8-30(i)(l)
- ☐ Use of "disassembly area" without an approved plat/Sec 8-30(i)(3)

**MOTOR VEHICLE SALES REQUIREMENTS**

- ☐ Display motor vehicle for sale on city right of way/Sec 45-111(1)
- ☐ Display motor vehicle for sale on a public street/private property/10-432

**FACILITY REQUIREMENTS**

- ☐ Illegal dumping (trash & debris)/Sec 10-341(e)
- ☒ Rat harborage/Sec 10-483
- ☐ Allow stagnate water to remain on property/Sec 10-451(b)(11)
- ☐ Open storage of tires (exposed to the elements)/Sec 21-183

**STATE OF TEXAS LICENSING REQUIREMENTS**

- ☐ No State salvage vehicle dealer license/Occupation Code 2302
- ☐ No used vehicle parts dealer endorsement/Occupation Code 2302
- ☐ No salvage vehicle rebuilder endorsement/Occupation Code 2302
- ☐ No salvage vehicle dealer agent's license/Occupation Code 2302
- ☐ No State salvage vehicle record/Occupation Code 2302
- ☐ No State salvage inventory records (parts & vehicles)/Occupation code 2302
- ☐ No General Distinguishing Number (car dealer)/Trans Code 503.021

**ENVIRONMENTAL VIOLATIONS**

- ☐ Illegal disposal of hazardous waste (lead)/Water Code, Chapter 7, Sec 7.162
- ☐ Used oil dumping/Water Code, Chapter 7, Sec 7.176
- ☒ Storage of batteries on the ground/Water Code, Chapter 7, Sec 7.185
- ☒ Accumulation of objectionable materials to wit: \_\_\_\_\_  
(oil, transmission fluid, etc)/Sec 10-451(b)(10)
- ☐ No class 3 flammable liquid permit (over 25 gal. in /60 gal out (oil) (Sec 105.p.3.3)
- ☒ No diking for above ground storage tank/Sec 7901.8.1/7902.2.8.1

The business is also subject to MISDEMEANOR / FELONY charges being filed due to any ENVIRONMENTAL violations. The violation(s) must be corrected by the officer's next inspection. Failure to correct the violation(s) may result in the issuance of Municipal Court Citations and/or the business license being SUSPENDED or REVOKED until the violations are corrected.

Inspecting Officer(s): VAUGHN Telephone #: 832-394-4800  
1002 Washington Avenue, Basement Houston, Texas 77002 H.P.D. Case #: \_\_\_\_\_ ☐ New ☐ Supplement  
Comments:

AUTOMOTIVE BOARD PROCESS STARTED TO HAVE A HEARING TO  
DETERMINE IF LICENSE WILL BE REVOKED.  
ARF 09/4 Expires

Signature of Business Owner /Agent / Manager: ETD ELIAS

CITY OF HOUSTON MUNICIPAL COURTS

COURT COPY

☐ 4601 Lubbock \* ☐ 8300 Mykawa \* ☒ 3203 S. Dairy Ashford \*  
Houston, TX 77002 Houston, TX 77048 Houston, TX 77082  
7:00 A.M. to 10:00 P.M. 8:00 A.M. to 5:00 P.M. 8:00 A.M. to 9:00 P.M.  
Monday - Friday Monday - Friday Monday - Friday  
7:00 A.M. to 4:00 P.M. ☐ 9455 W. Montgomery Rd \* \* Annex Court Closed  
Houston, TX 77088 12 P.M. - 1 P.M.  
8:00 A.M. to 5:00 P.M. Hours of Operation are  
Monday - Friday subject to change.

Pay or Resolve this ticket before your court date or YOU MUST APPEAR  
Court # 1B Time 600 A.M./P.M. Date 02/18/14  
Month Day Year

Ticket # **N30358815**  


For locations and hours see page 2, call 311 or (713) 637-0311, or visit [www.houston.tx.gov/courts](http://www.houston.tx.gov/courts).

Last Name ELIAS First Name ETD M ☒ DL ☐ CDL ☐ ID ☐ MC # 141672271 ST TX

Race W Sex M DOB 05/03/64 Age 49 Height 5'5" Vch --- ST --- Color --- Make --- Model --- Occ --- Occ ---

Home Address 7038 Chestnut Oak Ct City Belton ST TX ZIP 76707 Area Code --- Home Phone ---

Work Address 9650 S. Kildwood City Houston ST TX ZIP --- Area Code 281 Work Phone 575-3568

#1 CL 208 SNOBOL A MOBILE RETAILER WITHIN CURRENT TEXAS REGISTRATION

#2 CL 291 OFFERED AN AUTOMOBILE ESCAPE FACILITY WITHIN A 500 FT

#3 CL 248 FAIL TO STOP AUTOMOBILE WITHIN 4 SEAS 6 INCH ABOVE

OFFENSE DATE 02/19/14 TIME --- A.M. / P.M. (issue date if different) Month Day Year

Locations: #1 9600 S. Kildwood #2 9600 S. Kildwood #3 9600 S. Kildwood

Notes / Witness name, address, phone / Witness Name and ID#

Signature: X ESP ELIAS

REVISED 08/2013

# ITY OF HOUSTON MUNICIPAL COURTS

☐ 1400 Lubbok  
☐ 8000 Mainway  
☒ 2201 S. Dairy Ashford  
 Houston, TX 77062  
 Houston, TX 77068  
 Houston, TX 77062  
 7:00 A.M. to 10:00 P.M.  
 8:00 A.M. to 5:00 P.M.  
 Monday - Friday  
 Monday - Friday  
 7:00 A.M. to 4:00 P.M.  
☐ 9455 W. Montgomery Rd.  
 Houston, TX 77098  
 Houston, TX 77098  
 8:00 A.M. to 5:00 P.M.  
 Monday - Friday  
 Annex Court Closed  
 12 P.M. - 1 P.M.  
 Hours of Operation are  
 subject to change.

Pay or Resolve this ticket before your court date or YOU MUST APPEAR

Court # 18 Time 600 A.M. Date 02/18/14  
 Month Day Year

For locations and hours see page 2, call 311 or (713) 837-0311, or visit [www.houston.tx.gov/courts](http://www.houston.tx.gov/courts)

Ticket # **N30358824**



COURT COPY

Last Name ELIAS First Name EDD M H ☐ ID ☐ MC # 14678271 ST TX

Race W Sex M DOB 05/03/69 Age 44 Height 5'5" Vch --- ST --- Color --- Make --- Model --- Year ---

Home Address 7038 CLISTERE OAK CT City HOUSTON ST TX ZIP 77407 Area Code --- Home Phone ---

Work Address 9450 S. KILLAM City HOUSTON ST TX ZIP --- Area Code 281 Work Phone 575-8868

#1 FR 217 STILL ONLY KARS IN A COURTROOM

#2 CE 239 FAVOR TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE RECORD HISTORY

#3 CE 231 FAVOR TO KEEP RECORDS OF THE PURCHASE OF USED MOTOR VEHICLES TAKES

OFFENSE DATE 01/14/14 TIME --- AM / P.M. (Issue date if different)

Locations: 1 9400 S. KILLAM 2 9400 S. KILLAM 3 9400 S. KILLAM

Notes / Witness name, address, phone / Witness Name and ID#: ---

Signature --- --- ---

If commercial (vehicle, learners permit) include SSN ---

OFFICER NAME WALSH Vehicle HAZMAT Leather ---

Your failure to appear, failure to pay, or failure to satisfy a judgment ordering payment of a fine and costs, may result in: 1) a warrant issued for your arrest; 2) a charge of Failure to Appear and \$234 fine; 3) denial of Driver's License renewal; 4) denial of motor vehicle registration or renewal; 5) a \$30 DPS fee for each violation charged; and 6) a Warrant Fee of \$50. This is not an admission of guilt, but I do acknowledge receipt of this notice and I will appear in court at the time and place designated above. I am the person named and identified in this ticket.

SEARCH ☒ CONSENT ☒ ARREST ☒

CITY OF HOUSTON MUNICIPAL COURTS

COURT COPY

☐ 1400 Lubbock \* ☐ 8300 Mykema \* ☒ 2023 S. Dairy Ashford \*  
Houston, TX 77002 Houston, TX 77049 Houston, TX 77062  
7:00 A.M. to 10:00 P.M. 8:00 A.M. to 5:00 P.M. 8:00 A.M. to 9:00 P.M.  
Monday - Friday Monday - Friday Monday - Friday  
7:00 A.M. to 4:00 P.M. ☐ 9455 W. Montgomery Rd \* ☐ Annex Court Closed  
Houston, TX 77088 12 P.M. - 1 P.M.  
8:00 A.M. to 5:00 P.M. Hours of Operation are  
Monday - Friday subject to change.

Pay or Resolve this ticket before your court date or YOU MUST APPEAR  
Court # 18 Time 600 AM/PM Date 02/18/14  
Month Day Year  
For locations and hours see page 2, call 311 or (713) 837-0311, or visit [www.houstontx.gov/courts](http://www.houstontx.gov/courts)



Ticket # N30358833

Last Name ELIAS

First Name ETIO

DL or CDL ☒ DL ☐ CDL ☐ MC # 141072271

Race M Sex M DOB 05/02/64 Age 49 Height 5'5" VEH --- ST --- Color --- Make --- Model --- Front --- Back ---

Home Address 7036 Clusters Oak Ct City Baytown ST TX ZIP 77607 Area Code --- Home Phone ---

Work Address 9650 S. Kilgus City Houston ST TX ZIP 77058 Area Code 281 Work Phone 575-8568

#1 PL 373 FUTURE AS OCCURRING TO KEEP PREMISES FREE FROM  
KURASH CONCRETE

#2 PL 1355 FUTURE TO MONTHLY FEE OF CIV FEES

#3 PL 0271 NO CIV FEES

OFFENSE DATE 01/14/14 TIME 100 A.M. (P.M.) (issue date if different) Month Day Year

If commercial (vehicle, learners permit) include SSN \_\_\_\_\_

Road Surface --- Traffic ---

Locations: #1 9600 S. Kilgus #2 9600 S. Kilgus #3 9600 S. Kilgus

Notes / Witness name, address, phone / Witness Name and DOB: \_\_\_\_\_

OFFICER NAME Warrick Commercial ☒ Vehicle ☒ HAZMAT ☒ Weather CLR Dist 17 Be 46  
Your failure to appear, failure to pay, or failure to satisfy a judgment ordering payment of a fine and costs, may result in: 1) a warrant issued for your arrest; 2) a charge of Failure to Appear and \$234 fine; 3) denial of Driver's License renewal; 4) denial of motor vehicle registration or renewal; 5) a \$30 DPS fee for each violation charged; and 6) a Warrant Fee of \$50. This is not an admission of guilt, but I do acknowledge receipt of this notice and I will appear in court at the time and place designated above. I am the person named and identified in this ticket.

Signature Elio ELIAS

## Notes for: Eid Elias of Eid Car Care

| Date     | Time    | Who | Memo |
|----------|---------|-----|------|
| 4/7/2014 | 3:00 PM | LMV |      |

This business has a ARF which expires 09/14. During my inspection I spoke with Eid. I explained I was at the location to conduct a final inspection before his Automotive Board Hearing on 04/08.

During my inspection I noted the following violations:

AUTOMOTIVE PARTS ON THE SURFACE OF THE YARD

FAIL TO CONSTRUCT OR MAINTAIN A SOLID FENCE

REPAIR VEHICLES HELD OVER 30 DAYS NOT BEHIND SOLID FENCE

FAIL TO MAINTAIN ACUURATE RECORDS

RAT HARBORAGE

NO DIKING FOR ABOVE GROUND STORAGE TANK

The business has made some improvements on WORK ORDERS but I still found several incomplete and also found the WORK ORDERS inside the windshield of the repair vehicles with the owners personal information exposed to the public. He has cleaned up the inside of the shop but more work is needed. No vehicles are behind a solid fence that have been at the location more than 30 days some vehicles have been at the location for 120 days or longer but moved to different parking spaces in and around the business strip.

The business has completely taken over the South side of the shopping strip. Eid uses the entire area as if it is his personal parking lot/storage for vehicles. Vehicles entering the shopping strip are blocked from driving through the South Entrance/Exit because he is working on vehicles in the middle of the parking lot.

I also found a unknown oily substance that was washed from the area were vehicles were parked into the drainage system.

# EXHIBIT

## I

### PARTS

12/05/13



EXHIBIT

I

PARTS

01/14/14





EXHIBIT

I

WEEDS

12/05/13



EXHIBIT

I

WEEDS

01/14/14





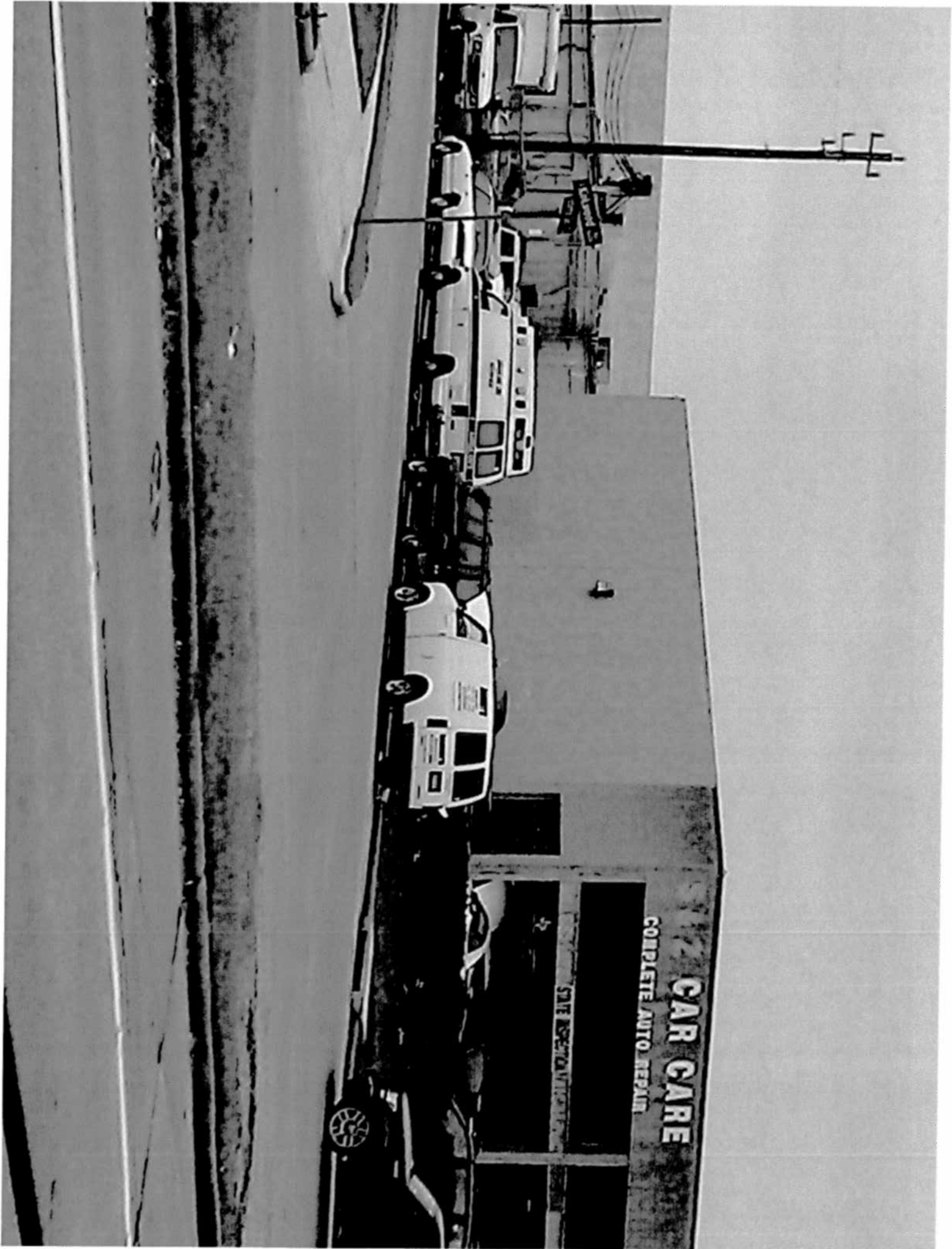


EXHIBIT

I

30 DAYS

12/05/13





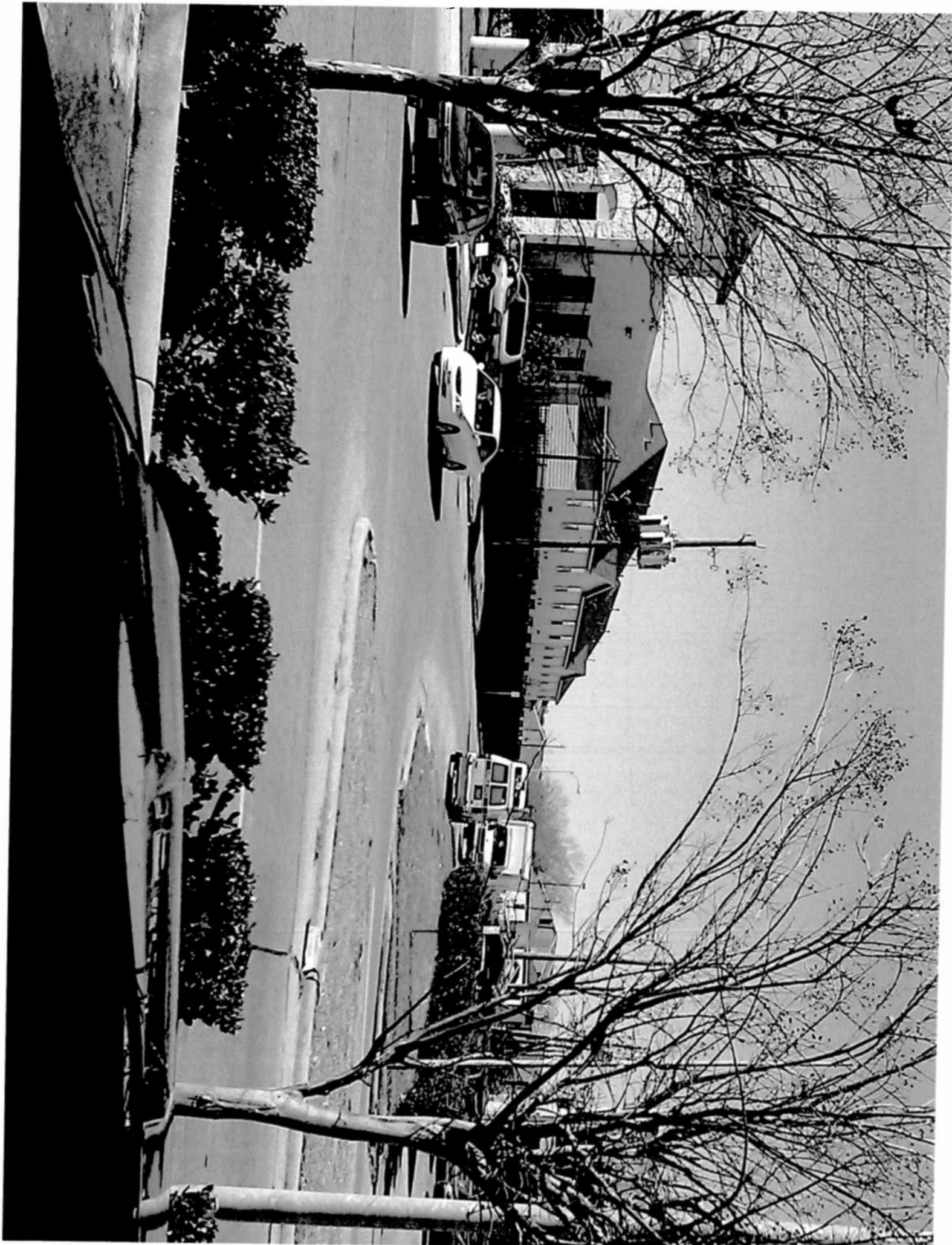


EXHIBIT

I

30 DAYS

01/14/14



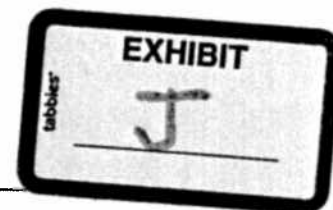








## Notes for: Eid Elias of Eid Car Care



| Date     | Time    | Who | Memo |
|----------|---------|-----|------|
| 2/8/2014 | 8:25 AM | MC  |      |

### Business Inspected / Follow up Inspection:

On Saturday, 02--08-2014, at approximately 0830 hrs. I, Sgt. Clark, met with Eid Elias of Eid Auto Care at 9650 S.Kirkwood after receiving a telephone request from him for assistance with his situation. At that time, he accompanied me as I conducted a complete walk through inspection of his shop and surrounding area. This to assist and direct him in bringing his business in compliance in preparation for his upcoming Automotive Board case.

### History-

Eid opened his business known as Eid Auto Care (formerly S n Z Car Care) at this location approximately two years ago in September of 2011. The business is an Auto Repair Facility (Lic.#101835) and is located on the S/E corner of a business strip center on the S/W corner of Bissonnet and S.Kirkwood. in 19G40'S beat. The shop itself faces S.Kirkwood and is bordered by Huntington Glen Dr. on the South side. Since the business opened, our records indicate that inspections date back to 5/2012. Since that time at least six more inspections have been done by Officers Shannon and Vaughn. Recently, Officer Vaughn decided to bring this business before the Automotive Board for review due to the continuous condition of the property.

### Outside and surrounding area of shop-

The biggest and most obvious issues that are immediately visible upon driving up to or by this business is the number of vehicles (operable and inoperable) that are parked in and around the business and the surrounding parking areas of the shopping center. So many vehicles have been accumulated due to unfinished, incomplete, or never started repair jobs that were negotiated over due to low income customers financial issues. Work done on vehicles was never paid for or was being paid for as money was available and the vehicle ends up sitting or abandoned by the owner since the cost to repair is not worth the money. Tires go flat and vehicles become more inoperable and begin to deteriorate even more. With that, trash and debris accumulates under and around these vehicles causing other obvious problems. I even observed a few vehicles on the street (Huntington Glen) that appeared inoperable. Behind and West of the business are rear entrances of other business that also accumulate trash by throwing their empty boxes and other assorted trash out the back door (pictures) instead of taking it to the dumpster as they should. One business which is a restaurant and closest to Eid Car Care set out some large pans with food grease and food garbage in them which naturally attracts feral cats to the area looking for food (pictures). I observed a feral cat in a trap (picture) set by Eid that was shaking very violently. I asked him what he was going to do with the cat and he said he did not know that he could not get anyone from the city to pick it up. With no other alternative I told him to let it go which he did. I told him I would have the appropriate city department come out and deal with the businesses and the trash / dumpster issue. He stated he understood.

I advised Eid he would have to start disposing of the vehicles sitting around that had been there over 30 days by either having the owners come get them, towing them off as abandoned or moving them behind a solid fence. I advised him he simply does not have the room for all the vehicles whatever the situation is. I advised Eid that he cannot repair vehicles on the side of a city street unless maybe he is changing a flat or something but no involved mechanical repairs. I also advised Eid he cannot use the street to store vehicles awaiting repair. He stated more than once he is moving but I reminded him that as long as he is at this location he will have to take care of the problem and the fact that he may be moving is no excuse for any delays. He stated he understood.

Interior of shop and business office-

The inside of the shop area and floor of the business was clean. I did observe two brake drums on the ground and some wheel bearings but that was due to a job in progress. Two used engines and two transmissions were placed neatly on a pallet against the wall. The few vehicles inside the garage area of the business had work orders on the dashboard of each vehicle. I assume this was all done as compliance to Officer Vaughn's previous inspections and recommendations. Outside the back door of the shop I observed all oil filters were inside a closed 55 gallon metal drum. Used motor oil and antifreeze was kept in a large plastic container next to each other and sitting on a wooden pallet. There was no visible means of diking in place to catch any spills or overflow. I told Eid he would have to have some diking under the oil and chemicals to protect from spills. I also advised Eid to build a canopy over the containers or completely enclose them from the elements so water would not accumulate in the diking system and mix with the chemicals. He stated he understood.

Upon entering the business office, I observed it to be in complete disarray and in need of a good cleaning. The desk area Eid uses to conduct business was completely covered in papers and what appeared to be and may or may not have been trash. Work orders and parts receipts were posted on the wall and all over this desk. It appeared nothing had a place but had been dropped there and it was stacking up. I asked Eid where he kept his files for his repair vehicles at. He pointed up at a bulletin board where several repair orders were pinned up. Most were incomplete and needed more information. I went over these with Eid and told him that all work orders need a name and phone number for the customer on them and that each should have the license plate and VIN# of the vehicle being repaired on it at the very least. I explained the reason for this and he stated he understood. I explained to him that he should keep a file in a file cabinet or box for each vehicle in his possession for repair that he can access easily within minutes of being asked for it if asked. He stated he understood. I advised him to start cleaning up his office and organizing his files and receipts right away as much as he can and getting rid of trash not needed. He stated he understood.

Front area / entrance to business-

Outside the front door of the business there were many cigarette butts on the ground and trash accumulated around a couple of cars that were in the process of being repaired. The canopy / overhang over the front door of the business appears to be popular with pigeons that roost underneath it and drop droppings on the ground all day. The concrete is stained with pigeon droppings that have been left there way to long. I advised Eid he needed to power wash the sidewalk and parking lot area immediately in front of the business to clean it properly. I could see oil stains on the ground but floor dry was plentiful and being used when needed. I suggested he start using cardboard pieces on top of the concrete also to catch small drips and avoid oil stains. He stated he understood.

Additional notes-

Before leaving, I told Eid I would drive by during the week when in the area to see if any noticeable changes were taking place from the outside. I advised him that I would stop on some occasions and check for progress as well. He stated he understood and would get started. He says he has no one to help him. The task of cleaning up here is a big one. It can be done and will depend on Eid. Eid is a mechanic that has little to no experience of running an efficient business. His customers consist mainly of people that have little or no money to spend on repairs which causes delays in cars moving in and out as they should for normal repairs. This only compounds things when coupled with his lack of organization in his filing and record keeping practices.



| Date | Time | Who | Memo |
|------|------|-----|------|
|------|------|-----|------|

To be continued.

Monday  
02/17/14 0815 hrs.

I returned to Eid Car Care this date and time and took 11 photographs of the business and surrounding area of the business to document any and all progress.

## Notes for: Eid Elias of Eid Car Care

| Date      | Time     | Who | Memo   |
|-----------|----------|-----|--|
| 7/8/2014  | 10:26 AM | LMV | This business has a ARF which was REVOKED on this date by the AUTOMOTIVE BOARD. Eid Car Care cannot take in any new vehicles from this date.   |
| 7/7/2014  | 11:00 AM | LMV | <p>This business has a ARF which expires 09/14. During my inspection I spoke with Mr. Eid. This inspection is a FOLLOW UP INSPECTION from the original Automotive Board Hearing on April 8th. Mr. Eid of Eid Car Care was given 30 days after the original hearing to correct ALL of the violations that were presented by Officer Vaughn.</p> <p>Due to SCHEDULING &amp; NOTIFICATION ISSUES Mr. Eid was granted 3 months of continuations 30 days at a time. I have been to the location every month since the last and found violations at Eid Car Care.</p> <p>During my inspection on 07/07/14 I found the following violations:</p> <p>REPAIR VEHICLES HELD OVER 30 DAYS NOT BEHIND A SOLID FENCE</p> <p>USE OF DISASSEMBLY ARE WITHOUT AN APPROVED PLAT</p> <p>Citations issued for the following:</p> <p>CC 268 STORING VEHICLES WITHOUT CURRENT TEXAS REGISTRATION AND VEHICLE INSPECTION STICKERS</p> <p>CC 240 AREA FOR KEEP/STORE DISABLE VEHICLES IN REPAIR FACILITY WITHOUT A SOLID FENCE</p> <p>REPAIR VEHICLES HELD OVER 30 DAYS NOT BEHIND SOLID FENCE</p> <p>Mr. Eid can simply put cannot operate a AUTOMOTIVE REPAIR FACILITY at his current location without being in violation of some type of local or state law/rule/regulation.</p> |
| 6/25/2014 | 12:15 PM | LMV | <p>This business has a ARF which expires 09/14. During my inspection I spoke with the owner Mr. Eid. I delivered a NOTICE TO APPEAR BEFORE THE AUTOMOTIVE BOARD on 07/08/14 at 09:00. He signed for the notice. I also contacted his attorney by phone and advised him of the NOTICE TO APPEAR.</p>  |
| 6/10/2014 | 9:00 AM  | LMV | <p>Eid Car Care has been before the board and had an appointment to attend the AUTOMOTIVE BOARD HEARING on 06-10-14. He did not show. I went to the location and conducted an inspection of the business. I found the following violations:</p> <p>CC 268 STORING A VEHICLE WITHOUT CURRENT TEXAS REGISTRATION AND VEHICLE INSPECTION STICKERS</p> <p>CC 229 FAILURE TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE REPAIR FACILITY</p> <p>CC 241 OPERATE AN AUTOMOTIVE REPAIR FACILITY WITHOUT A SOLID FENCE (approximately 15 cars stored in parking lot around the shopping strip)</p> <p>CC 70 NO DOG LICENSE</p> <p>I took approximately 25 photos of the location.</p>   |

| Date | Time | Who | Memo |
|------|------|-----|------|
|------|------|-----|------|

When I arrived at the scene I found the entrance/exit of the shopping strip completely blocked by vehicles at EIDS shop. I asked why the vehicles were blocking the entrance/exit. Eid said someone tried to break into his shop so he PARKED THE CUSTOMER VEHICLES IN FRONT OF HIS SURVEILLANCE CAMERA which is pointed towards the entrance/exit of the shopping strip. I asked how would FIRE TRUCKS get to his business or the rest of the shopping strip if it was on fire if he had cars blocking the entrance/exit of the shopping strip.

I explained that the vehicles needed to be removed immediately. He said he only had them there overnight. I explained it is a fire hazard. I found vehicles parked all over the shopping strip and on the street waiting for repair.

On my previous inspection before his last AUTOMOTIVE BOARD MEETING he completely removed the vehicles in question. Within the past 30 days he has brought the vehicles back and/or taken in more vehicles at his business. It appears he has disregarded all he was told by me and the AUTOMOTIVE BOARD and went back to business as usual.

|           |         |     |  |
|-----------|---------|-----|--|
| 5/12/2014 | 2:45 PM | LMV |  |
|-----------|---------|-----|--|

This business has a ARF which expires 09/14. During my inspection I spoke with Mr Elias. This inspection is the final inspection before his 2nd AUTOMOTIVE BOARD HEARING to follow up on his progress of correcting his violations. Since his last AUTOMOTIVE BOARD HEARING I have made the decision to not issue any citations but to document any violations I found. The reason for not issuing any citations is to assist Mr. Elias in the improvement process of his business and not cost him any more money than he has already spent for the improvements to his current business and the opening of his new location/business which he plans to move to in the very near future.

During my inspection I noted that all previous violations were addressed. He has removed 90% of the vehicles in and around the property. All the vehicles have been removed from the business across the street to the South. He has no vehicle parked on the street that are being repaired. He still has several vehicles that are in front of the business that are currently being repaired.

He has removed the oil container from the rear of the business and has placed a metal pan underneath the oil tank inside the business that he is currently using to dispose of the oil. The pan is not exactly what is required but does keep the spilled oil from running out onto the ground and is a temporary fix. If the oil was allowed to overflow from the pan it would run out onto the business surface. However the spilled oil underneath the tank, inside the pan is being soaked up by DRY SWEEP.

He still has vehicles that have been at the location for longer than 120 days. However he has placed the vehicles in the rear of the business and placed a GREEN PLASTIC LIKE MATERIAL ALONG THE FENCE which blocks about 75% of the view from public. You can see through the material but not clearly.

His current invoices are complete but he still has some old vehicle repair invoices that are not complete.

The overall shop is a lot cleaner than my previous inspections. He has made a huge improvement. Although his shop could use some organization it is a safer, neater, cleaner work environment.

Mr. Elias cannot afford to take in any extra vehicles without getting back into the same situation he was previously in. He has to basically do a 1 for 1 swap with repair vehicles. He has no room to store the vehicles for a long period of time. He can take in a vehicle or two as he repairs and returns a vehicle to a customer.

I explained to Mr. Elias that I would continue to monitor his business and I would not allow him to go back to the business as usual mentality after the BOARD HEARING. I explained I would monitor his business until he has moved to his new location

| Date      | Time     | Who | Memo  |
|-----------|----------|-----|---|
|           |          |     | which is more than sufficient for his AUTOMOTIVE REPAIR FACILITY.   |
| 4/18/2014 | 2:40 PM  | LMV | <p>This business has a ARF which expires 09/14. During my inspection I spoke with Eid.</p> <p>This is the 1st inspection and the 2nd NOTICE TO APPEAR before the AUTOMOTIVE BOARD served to Mr. Eid.</p> <p>During my inspection I noted the following violations:</p> <p>AUTOMOTIVE PARTS ON THE SURFACE OF THE YARD</p> <p>HIGH WEEDS IN EXCESS OF 9 INCHES</p> <p>FAIL TO CONSTRUCT OR MAINTAIN A SOLID FENCE</p> <p>REPAIR VEHICLES HELD OVER 30 DAYS NOT BEHIND SOLID FENCE</p> <p>FAIL TO MAINTAIN ACCURATE RECORDS</p> <p>NO DIKING FOR ABOVE GROUND STORAGE TANK</p> <p>The previously noted vehicle held over 30 days some in excess of 160 days are still scattered about the property. Most are not at the actual address of the business. Some of the vehicles have been moved from the original location to different parking spots. All of the previous violations still exist. He still has not properly completed most of the work orders on the vehicles. Missing items include addresses, what work is to be done, the cost of the work, contact phone numbers, vehicle identification numbers, etc.</p> <p>I am under the impression that Mr. Eid thinks because he has not done any work on the vehicles because he was not paid that or the owner didn't pick up the vehicle that he is not responsible for the vehicles after he has taken them into his shop. He later parks them any and everywhere in the parking lot, street across the street in other business parking lots etc..</p> <p>He still wants to argue the fact that he is moving. I have attempted to explain over and over again that the violations are current violations that need to be addressed immediately not what he plans to do in the future.</p> <p>He also attempted to argue that he is no longer using a oil disposal tank in the rear of the buisness. However the tank is still there and leaking oil. He thinks because he is not using it that he has fixed the problem. He pointed out a green oil storage tank inside the business that does not have any diking around it which also has oil spilled and or leaking outside of the tank.</p> <p>He still has vehicle with no registration and or inspection sticker or expired registration and or inspection stickers that have been on the property for longer than 30 days.</p> <p>I chose to not write citations and give him 7 days to attempt to fix some of the violations that can easily be fixed. However I explained that I would issue citations if the violations are not corrected.</p> |
| 4/8/2014  | 11:37 AM | LMV | <p>EID CAR CARE Automotive Board Hearing Results.</p> <p>The BOARD agreed to give Mr. Eid Elias 30 days to complete/correct ALL violations previously stated on past inspection forms. A new BOARD HEARING date will be issued.</p>   |

| Date | Time | Who | Memo |
|------|------|-----|------|
|------|------|-----|------|

|          |         |     |  |
|----------|---------|-----|--|
| 4/7/2014 | 3:00 PM | LMV |  |
|----------|---------|-----|--|

This business has a ARF which expires 09/14. During my inspection I spoke with Eid. I explained I was at the location to conduct a final inspection before his Automotive Board Hearing on 04/08.

During my inspection I noted the following violations:

AUTOMOTIVE PARTS ON THE SURFACE OF THE YARD

FAIL TO CONSTRUCT OR MAINTAIN A SOLID FENCE

REPAIR VEHICLES HELD OVER 30 DAYS NOT BEHIND SOLID FENCE

FAIL TO MAINTAIN ACUURATE RECORDS

RAT HARBORAGE

NO DIKING FOR ABOVE GROUND STORAGE TANK

The business has made some improvements on WORK ORDERS but I still found several incomplete and also found the WORK ORDERS inside the windshield of the repair vehicles with the owners personal information exposed to the public. He has cleaned up the inside of the shop but more work is needed. No vehicles are behind a solid fence that have been at the location more than 30 days some vehicles have been at the location for 120 days or longer but moved to different parking spaces in and around the business strip.

The business has completely taken over the South side of the shopping strip. Eid uses the entire area as if it is his personal parking lot/storage for vehicles. Vehicles entering the shopping strip are blocked from driving through the South Entrance/Exit because he is working on vehicles in the middle of the parking lot.

I also found a unknown oily substance that was washed from the area were vehicles were parked into the drainage system.

|           |         |     |  |
|-----------|---------|-----|--|
| 3/26/2014 | 2:00 PM | LMV |  |
|-----------|---------|-----|--|

During my visit to Eid Car Care I met with Eid and delivered his AUTOMOTIVE BOARD/ NOTICE OF VIOLATIONS, NOTICE TO APPEAR, NOTICE OF RIGHTS OF APPEAL and I had him sign for the documents.

After he signed for the documents I asked if he had any questions. He asked why I was doing this to him. I explained the violations were self explanatory. However I read the front page of the document to him explaining the reason he was asked to appear before the AUTOMOTIVE BOARD. He said ok he understood.

|          |         |    |  |
|----------|---------|----|--|
| 2/8/2014 | 8:25 AM | MC |  |
|----------|---------|----|--|

Business Inspected / Follow up Inspection:

On Saturday, 02--08-2014, at approximately 0830 hrs. I, Sgt. Clark, met with Eid Elias of Eid Auto Care at 9650 S.Kirkwood after receiving a telephone request from him for assistance with his situation. At that time, he accompanied me as I conducted a complete walk through inspection of his shop and surrounding area. This to assist and direct him in bringing his business in compliance in preparation for his upcoming Automotive Board case.

History-

Eid opened his business known as Eid Auto Care (formerly S n Z Car Care) at this location approximately two years ago in September of 2011. The business is an Auto Repair Facility (Lic.#101835) and is located on the S/E corner of a business strip center on the S/W corner of Bissonnet and S.Kirkwood. in 19G40'S beat. The

shop itself faces S.Kirkwood and is bordered by Huntington Glen Dr. on the South side. Since the business opened, our records indicate that inspections date back to 5/2012. Since that time at least six more inspections have been done by Officers Shannon and Vaughn. Recently, Officer Vaughn decided to bring this business before the Automotive Board for review due to the continuous condition of the property.

#### Outside and surrounding area of shop-

The biggest and most obvious issues that are immediately visible upon driving up to or by this business is the number of vehicles (operable and inoperable) that are parked in and around the business and the surrounding parking areas of the shopping center. So many vehicles have been accumulated due to unfinished, incomplete, or never started repair jobs that were negotiated over due to low income customers financial issues. Work done on vehicles was never paid for or was being paid for as money was available and the vehicle ends up sitting or abandoned by the owner since the cost to repair is not worth the money. Tires go flat and vehicles become more inoperable and begin to deteriorate even more. With that, trash and debris accumulates under and around these vehicles causing other obvious problems. I even observed a few vehicles on the street (Huntington Glen) that appeared inoperable. Behind and West of the business are rear entrances of other business that also accumulate trash by throwing their empty boxes and other assorted trash out the back door (pictures) instead of taking it to the dumpster as they should. One business which is a restaurant and closest to Eid Car Care set out some large pans with food grease and food garbage in them which naturally attracts feral cats to the area looking for food (pictures). I observed a feral cat in a trap (picture) set by Eid that was shaking very violently. I asked him what he was going to do with the cat and he said he did not know that he could not get anyone from the city to pick it up. With no other alternative I told him to let it go which he did. I told him I would have the appropriate city department come out and deal with the businesses and the trash / dumpster issue. He stated he understood.

I advised Eid he would have to start disposing of the vehicles sitting around that had been there over 30 days by either having the owners come get them, towing them off as abandoned or moving them behind a solid fence. I advised him he simply does not have the room for all the vehicles whatever the situation is. I advised Eid that he cannot repair vehicles on the side of a city street unless maybe he is changing a flat or something but no involved mechanical repairs. I also advised Eid he cannot use the street to store vehicles awaiting repair. He stated more than once he is moving but I reminded him that as long as he is at this location he will have to take care of the problem and the fact that he may be moving is no excuse for any delays. He stated he understood.

#### Interior of shop and business office-

The inside of the shop area and floor of the business was clean. I did observe two brake drums on the ground and some wheel bearings but that was due to a job in progress. Two used engines and two transmissions were placed neatly on a pallet against the wall. The few vehicles inside the garage area of the business had work orders on the dashboard of each vehicle. I assume this was all done as compliance to Officer Vaughn's previous inspections and recommendations. Outside the back door of the shop I observed all oil filters were inside a closed 55 gallon metal drum. Used motor oil and antifreeze was kept in a large plastic container next to each other and sitting on a wooden pallet. There was no visible means of diking in place to catch any spills or overflow. I told Eid he would have to have some diking under the oil and chemicals to protect from spills. I also advised Eid to build a canopy over the containers or completely enclose them from the elements so water would not accumulate in the diking system and mix with the chemicals. He stated he understood.

Upon entering the business office, I observed it to be in complete disarray and in

need of a good cleaning. The desk area Eid uses to conduct business was completely covered in papers and what appeared to be and may or may not have been trash. Work orders and parts receipts were posted on the wall and all over this desk. It appeared nothing had a place but had been dropped there and it was stacking up. I asked Eid where he kept his files for his repair vehicles at. He pointed up at a bulletin board where several repair orders were pinned up. Most were incomplete and needed more information. I went over these with Eid and told him that all work orders need a name and phone number for the customer on them and that each should have the license plate and VIN# of the vehicle being repaired on it at the very least. I explained the reason for this and he stated he understood. I explained to him that he should keep a file in a file cabinet or box for each vehicle in his possession for repair that he can access easily within minutes of being asked for it if asked. He stated he understood. I advised him to start cleaning up his office and organizing his files and receipts right away as much as he can and getting rid of trash not needed. He stated he understood.

#### Front area / entrance to business-

Outside the front door of the business there were many cigarette butts on the ground and trash accumulated around a couple of cars that were in the process of being repaired. The canopy / overhang over the front door of the business appears to be popular with pigeons that roost underneath it and drop droppings on the ground all day. The concrete is stained with pigeon droppings that have been left there way to long. I advised Eid he needed to power wash the sidewalk and parking lot area immediately in front of the business to clean it properly. I could see oil stains on the ground but floor dry was plentiful and being used when needed. I suggested he start using cardboard pieces on top of the concrete also to catch small drips and avoid oil stains. He stated he understood.

#### Additional notes-

Before leaving, I told Eid I would drive by during the week when in the area to see if any noticeable changes were taking place from the outside. I advised him that I would stop on some occasions and check for progress as well. He stated he understood and would get started. He says he has no one to help him. The task of cleaning up here is a big one. It can be done and will depend on Eid. Eid is a mechanic that has little to no experience of running an efficient business. His customers consist mainly of people that have little or no money to spend on repairs which causes delays in cars moving in and out as they should for normal repairs. This only compounds things when coupled with his lack of organization in his filing and record keeping practices.

To be continued.

Monday  
02/17/14 0815 hrs.

I returned to Eid Car Care this date and time and took 11 photographs of the business and surrounding area of the business to document any and all progress.

1/14/2014 1:00 PM LMV

This business has a ARF that expires 09/14. During my inspection I spoke with the owner EID. I explained to him that the process has started to take him and his business before the AUTOMOTIVE BOARD to revoke his license. He asked if I wanted to close him down. I explained yes I would close him down if that was the

ruling from the board.

During my inspection I noted many violations. Almost all of them were the same violations he was found in violation previously. I took photos to assist in the validation of those violations. It appeared that no corrections have been made to fix many of the issues. I also noted numerous violations on the inspection form some of which he was not cited for.

Mr., Eid expressed his opinion with profanity saying he was "fucked by his brother and now he being fucked by me". He asked who sent me to the location. I explained to him that no one sent me to the location. I told him he has numerous violations that are in gross violation of many laws. He has also taken up almost the entire East side of the shopping strip. There are no available parking spaces for the businesses next door to him. Vehicles are blocking the entrance ways just parked openly in the driveways blocking traffic and not in a designated parking space. Vehicles are being repaired all over the shopping strip not just in the actual business location. Automotive parts, trash, cat feces, oil, transmission fluid and other unknown liquids are spilled inside and outside the business. Incomplete work orders that do not have the VIN, YEAR, DATE, COST OF REPAIR and in some cases what is actually being repaired on the vehicle. Used vehicle parts with no record of where or when they were purchased.

The following citations were issued.

CC 393 FAILURE AS A OCCUPANT TO KEEP PREMISES FREE FROM RUBBISH (GARBAGE)

CC 1355 FAILURE TO PROMPTLY DISPOSE OF CAT FECES

CC 71 NO CAT LICENSE

CC 229 FAILURE TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE REPAIR FACILITY

CC 231 FAILURE TO KEEP RECORDS OF THE PURCHASE OF USED MOTOR VEHICLE PARTS

CC 268 STORING A MOTOR VEHICLE WITHOUT CURRENT TEXAS REGISTRATION AND VEHICLE INSPECTION STICKERS

CC 241 OPERATE AN AUTOMOTIVE REPAIR FACILITY WITHOUT A SOLID GATE

CC 248 FAIL TO STORE AUTOMOTIVE MATERIAL AT LEAST 6 INCH ABOVE SURFACE IN AUTO REPAIR FACILITY.

12/5/2013 1:30 PM LMV

This business has a ARF which expires 09/14. During my inspection I spoke with the owner Eid. This business has had numerous complaints from citizens to Westside DRT via Officer M. Prause who then contacted AUTO DEALERS DETAIL for assistance.

On 10/16/13 I went out to the location and conducted a inspection and found numerous violations. I asked that the violations be fixed and noted I would return to the location to check the progress. Before my visit to the location Officer R. Shannon inspected the location on 02/28/13 and noted several violation and issued citations.

On 12/05/13 I returned to the location and found the following violations:

AUTOMOTIVE PARTS ON THE SURFACE OF THE YARD/SEC 8-30(i) (2)



ILLEGAL DUMPING (TRASH & DEBRIS)/SEC 10-341 (e)

ILLEGAL DISPOSAL OF HAZARDOUS WASTE (lead)/WATER CODE, CHAPTER 7, SEC 7.62

USED OIL DUMPING/WATER CODE, CHAPTER 7, SEC 7.176

STORAGE OF BATTERIES ON THE GROUND/WATER CODE, CHAPTER 7, SEC 7.185

In addition to the noted violations I issued Mr. Eid Elias 6 citations N27644705 & N27644705 for the following violations.

CC 990 REPAIRING AUTO ON STREET

FR 217 STORE OILY RAGS IN CONTAINER

CC 241 OPERATE AN AUTOMOTIVE REPAIR FACILITY WITHOUT A SOLID FENCE

CC 268 STORING A MOTOR VEHICLE WITHOUT CURRENT TEXAS REGISTRATION AND VEHICLE INSPECTION STICKER

CC 393 FAILURE AS A OCCUPANT TO KEEP PREMISES FREE FROM (RUBBISH) (GARBAGE) (DISCARDED AUTOMOTIVE PARTS, PAPER, PLASTIC CONTAINERS THAT AUTO PARTS COME IN)

CC 229 FAILURE TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE REPAIR FACILITY

I explained to Mr. Elias that the issues were not addressed any of the previous times he was inspected. In fact their are more vehicles spread across the shopping center parking lot, street and adjacent property across the street to the South. I also informed him that I planned to return to the location in approximately 1 week to see if any progress was made on the clean up of the business.

In addition I took approximately 30 photos of numerous violations.

|            |          |     |
|------------|----------|-----|
| 10/16/2013 | 12:55 PM | LMV |
|------------|----------|-----|

This business has a ARF which expires 09/14. During my inspection I spoke with Eid the owner. I noted that the business has numerous repair vehicles parked on the street, AUTOMOTIVE PARTS ON THE SERVICE OF THE YARD, OIL/TRANSMISSION/FLUIDS SPILLED IN THE PARKING LOT AND STREET, RAT HARBORAGE, ILLEGAL DUMPING OF TRASH and OPEN STORAGE OF TIRES.

I explained to the owner that I received a complaint about his business and the violations needed to be fixed. He assured me he would fix the problems. He also explained he was planning to move from the location and he showed me the land survey of the property he was planning to move too.

I explained I would give the business 30 days to fix the problems that were noted on the inspection form.

I received a complaint regarding this business from a DRT Officer from Westside Command Station via email.

|           |         |    |
|-----------|---------|----|
| 2/28/2013 | 1:05 PM | RS |
|-----------|---------|----|

Follow up Inspection: ON THIS DATE AND THE OWNER WAS WRITTEN THE FOLLOWING CITATIONS:

| Date       | Time     | Who | Memo  |
|------------|----------|-----|---|
|            |          |     | <p>CC229- FAILURE TO MAINTAIN PROPER RECORDS OF AUTOMOTIVE REPAIRS</p> <p>CC239- AREA TO STORE DISABLE VEHICLES AT REPAIR FACILITY WITH OUT A FENCE</p> <p>CC241- OPERATE AN AUTO REPAIR FACILITY WITH OUT A SOLID GATE</p> <p>CITATION #N26414412</p>  |
| 12/18/2012 | 12:40 PM | RS  | <p>Follow up Inspection: ON THIS DATE AND IT WAS NOTED THAT THE OWNER HAVE REMOVED SEVERAL VEHICLES, HOWEVER, THERE ARE MORE THERE NOT BEHIND A SOLID FENCE AND HAVE BEEN THERE FOR MORE THAN 30 DAYS. IT WAS ALSO NOTED THAT IN THE REAR, OIL CONTAINERS ARE ON THE GROUND AND OIL RESIDUE IS AROUND THE BASE OF THE BARRELS.</p> <p>WILL RETURN. OWNER WAS WARNED THAT CITATIONS WILL BE ISSUED IF NOT IN COMPLIANCE.</p>   |
| 11/14/2012 | 3:40 PM  | RS  | <p>Follow up Inspection: ON THIS DATE AND IT WAS NOTED THAT THE PLACE WAS IN TERRIBLE SHAPE. VEHICLES PARKED ALL OVER THE STRIP CENTER THAT WERE BEING REPAIRED BY THE OWNER. AUTOMOTIVE PARTS ALL OVER THE REAR OF THE BUSINESS ALONG WITH OIL CONTAINERS ON THE GROUND THAT WERE COMPLETELY FULL OF OLD OIL FILTERS. THIS IS THE SECOND WARNING. CITATIONS WILL BE ISSUED FOR ANY VIOLATIONS NOTED ON NEXT INSPECTION.</p> <p>OWNER STATED THAT HE WILL BE MOVING DUE TO NOT HAVING ENOUGH SPACE AT THIS LOCATION.</p>  |
| 5/31/2012  | 10:25 AM | RS  | <p>Business Inspected: Follow up Inspection: ON THIS DATE AND THE FOLLOWING VIOLATIONS WERE NOTED:</p> <p>AUTOMOTIVE PARTS ON THE SURFACE OF THE YARD</p> <p>HIGH WEEDS IN EXCESS OF 9 1 INCHES</p> <p>FAIL TO MAINTAIN ACCURATE RECORDS</p> <p>THE OWNER HAVE BEEN WARNED IN THE PAST ABOUT THE EXCESSIVE AMOUNT OF VEHICLES PARKED AT HIS BUSINESS, IN THE FRONT AND THE REAR. IT WAS ALSO NOTED THAT THE VEHICLES BEING REPAIRED INSIDE THE GARAGE (7), ONLY 2 HAVE A WORK ORDER. OWNER HAD WORK ORDERS ALL OVER THE PLACE AND MANY WERE NO PROPERLY COMPLETED.</p> <p>A THIRD INSPECTION WILL BE CONDUCTED.</p> |



# CITY OF HOUSTON

Annise D. Parker, Mayor

**Houston Police Department**

1200 Travis Houston, Texas 77002-6000 713/308-1600

CITY COUNCIL MEMBERS: Brenda Stardig Jerry Davis Ellen Cohen Dwight A. Boykins Dave Martin Richard Nguyen Oliver Pennington Edward Gonzalez Robert Gallegos  
Mike Laster Larry V. Green Stephen C. Costello David Robinson Michael Kubosh C. O. "Brad" Bradford Jack Christie CITY CONTROLLER: Ronald C. Green

July 8, 2014

Charles A. McClelland, Jr.  
Chief of Police



Elias Eid  
Eid Car Care  
9650 S. Kirkwood Dr. A-1  
Houston, Texas 77099

Dear Elias Eid:

On July 8, 2014, the Automotive Board of the City of Houston considered the Houston Police Department's recommended revocation of your City of Houston Auto Repair Facility license no. 101835. After considering the evidence presented, the Board has taken the following action:

- ☒ Revoked your Auto Repair Facility license.
  - ☐ Denied the proposed revocation of your Auto Repair Facility license.
  - ☐ Reset your hearing until \_\_\_\_\_, 2014, so that:
    - ☐ You may provide the following information requested by the Board: \_\_\_\_\_
- or:
- ☐ Other: \_\_\_\_\_

Sincerely,

Ken W. Ulmer, Chair  
Automotive Board

Date: July 8-2014.





# **AUTOMOTIVE BOARD**

## **MINUTES**

**July 8, 2014**

**9:00 A.M.**

**Houston Permitting Center**

**1002 Washington Ave., Basement Level**

**Houston, TX 77002**

The monthly meeting of the Automotive Board was held on Tuesday, July 8, 2014. Members in attendance at this meeting were Automotive Board Chairman Mr. Ken W. Ulmer, Mrs. Erma Palmer, Mr. Tim Straney, Mr. Benjamin K. Sanchez, Mr. Owen C. Wang, Ms. Shelly Richardson, Sr. Assistant City Attorney Tracy Calabrese, Assistant City Attorney Jeffrey Giles, Assistant City Attorney Nneka Kanu and Secretary Lieutenant Dana. F. Hitzman

### **CALL TO ORDER**

Chairman Ulmer in the Houston Permitting Center, Basement Level, 1002 Washington Ave., Houston, Texas, called the meeting to order at 9:12 a.m.

### **ADOPT MINUTES OF PREVIOUS MEETING**

Mr. Straney moved to approve the minutes from the June 10, 2014 Automotive Board meeting. The motion was seconded by Mr. Wang, and approved by all members present.

## **HEARINGS**

1. Hearing for Mr. Elias Eid, relating to the revocation his Automotive Repair Facility license #101835 for Eid Car Care, located at 9650 S. Kirkwood Drive #A-.1.

Following presentation by the police department and Mr. Elias Eid, Counsel Paul Kubosh, and court reporter Shawn Kelley, motion was made by Mr. Sanchez to deny Mr. Eid Automotive Repair Facility license #101835 for Eid Car Care. Motion was seconded by Mr. Wang, and approved by all members present.

2. Hearing for Mr. Wael Abuzaid, relating to the denial of his Automotive Repair Facility license #110997 for A & A Complete Auto Repair located at 12160 Bissonnet Street.

Following presentation by the police department and Mr. Wael Abuzaid, First motion was made by Mr. Sanchez to set aside in order for Auto Dealer Detail go look for previous records for Mr. Abuzaid business. Motion was seconded by Mr. Straney, and approved by all members present. After reviewing the records a second motion was made by Mr. Sanchez to grant Mr. Mr. Abuzaid Automotive Repair Facility license #110997. Motion was seconded by Mr. Straney, and approved by all members present.

3. Hearing for Mr. Homer Roby, relating to the denial of his Motor Vehicle Dealer license #111082 for Roby's Auto Sales located at 3533 Pinemont Drive.

Following presentation by the police department and Mr. Homer Roby, motion was made by Mr. Straney to deny Mr. Roby's Motor Vehicle Dealer license #111082 for Roby's Auto Sales. Motion was seconded by Mr. Wang, and approved by the majority of the member with Mrs. Palmer, and Mr. Sanchez voting nay.

4. Hearing for Mr. Mamoun Abu-Halaweh, relating to the denial of his Motor Vehicle Dealer license #103810 for Southwest Auto Sales located at Richmond Avenue and Salesman application license #110843.

Following presentation by the police department and Mr. Mamoun Abu-Halaweh, First motion was made by Mr. Sanchez to grant Mr. Abu-Halaweh's Motor Vehicle Dealer license #103810 and Salesman application license #110843. Motion was seconded by Mr. Straney. There were not enough votes therefore motion fail. A second motion was made by Mr. Sanchez to grant Mr. Abu-Halaweh's Motor Vehicle Dealer license #103810 and Salesman application license #110843. Motion was seconded by Mr. Straney, and approved by the majority of the member with Mrs. Palmer, and Ms. Richardson voting nay.

5. Hearing for Mr. Harry Hartley II, relating to the denial of his Wholesale Jobber and Supply Dealer license # 025133 for Impaco, Inc. located at 6847 Harrisburg Blvd.

Following presentation by the police department and Mr. Harry Hartley II, Counsel Michael Harris, motion was made by Mr. Sanchez to deny Mr. Hartley's Wholesale Jobber and Supply Dealer license # 025133 for Impaco, Inc. Motion was seconded by Mr. Wang, and approved by the majority of the member with Mrs. Palmer voting nay.

6. Hearing for Mr. Derrick M. Mcadoo, relating to the denial of his salesman application license #110716.

Following presentation by the police department and Mr. Derrick M. Mcadoo, motion was made by Mrs. Palmer to grant Mr. Mcadoo's salesman application license #110716. Motion was seconded by Mr. Straney, and approved by all members present.

7. Hearing for Mr. Alvin Eugene Garrett, relating to the delay making a decision for his wrecker driver license #110155.

Following presentation by the police department and Mr. Alvin Eugene Garrett, motion was made by Mr. Sanchez to deny the delay making a decision for Mr. Garrett's wrecker driver license #110155. Motion was seconded by Mr. Straney, and approved by all members present.

8. Hearing for Mr. Charles Edward Nash Jr., relating to the denial of his wrecker driver license #110773.

Following presentation by the police department and Mr. Charles Edward Nash Jr., motion was made by Mr. Straney to grant Mr. Nash's wrecker driver license #110773. Motion was seconded by Mr. Sanchez, and approved by all members present.

9. Hearing for Mr. Juan Francisco Garcia, relating to the denial of his wrecker driver license #110851.

Following presentation by the police department and Mr. Juan Francisco Garcia, motion was made by Mr. Sanchez to grant Mr. Garcia's wrecker driver license #110851. Motion was seconded by Mr. Straney, and approved by all members present.

10. Hearing for Mr. Billy Fernando Lemus, relating to the denial of his wrecker driver license #082614.

As the applicant was given proper notice and failed to appear, motion was made by Mr. Sanchez to deny Mr. Lemus's wrecker driver license #082614. Motion was seconded by Mrs. Richardson, and approved by all members present.

11. Hearing for Mr. Manuel Vidal Garza, relating to the denial of his salesman application license #103584.

As the applicant was given proper notice and failed to appear, motion was made by Mr. Sanchez to deny Mr. Garza's salesman application license #103584. Motion was seconded by Mrs. Richardson, and approved by all members present.

12. Hearing for Ms. Mayda Vanesa Hernandez, relating to the denial of her wrecker driver license #110745.

As the applicant was given proper notice and failed to appear, motion was made by Mr. Sanchez to deny Mr. Hernandez's wrecker driver license #110745. Motion was seconded by Mrs. Richardson, and approved by all members present.

### **OTHER MATTERS**

13. Mr. Ulmer requested to move item #2 to item #1, motion was made by Mrs. Palmer seconded by Mr. Wang, and approved by all members present.

Mr. Sanchez motion to move item #12 to item #5, motion was seconded by Mr. Wang, and approved by all members present.

14. Consider applications for automotive dealers and salesperson license.

Mr. Sanchez moved to approve all licenses for RETAIL SUPPLY DEALERS WITH NO CRIMINAL RECORDS, Advance Auto Parts #8518, 9112 Spring Branch Dr., RSD #1109290615, Alicia Castillo to Wal-Mart #2718, 9555 S. Post Oak Rd., RSD #1110540615, Jesse Hale. Motion was seconded by Mrs. Richardson, and approved by all members present.

Mr. Sanchez moved to approve all licenses for MOTOR VEHICLE DEALERS WITH NO CRIMINAL RECORDS, Advantage Houston Motors LLC, 12822 Mcnair., MVD #1109620615, Micheline and Khalil Abounasr to World Auto Center, Inc., 5009 Fuqua Gardens View Rd., MVD #1110690615, Dorance Agudelo. Motion was seconded by Mrs. Richardson, and approved by all members present.

Mr. Sanchez moved to approve all licenses for MISCELLANEOUS DEALERS WITH NO CRIMINAL RECORDS, 5 Star Collision, 1331 Silber., ARF#1109460615, Miguel Angel Rivas to Zach's Wheels & Tires, 14404 Hempstead Hwy, UP&UAD #1110070615, Jocelyn Elissa Alvarado. Motion was seconded by Mrs. Richardson and approved by all members present.

Mr. Sanchez moved to approve all licenses for AUTOMOBILE SALESPERSONS WITH NO CRIMINAL RECORD, Momoun Abu-Halaweh, #1108430615, 8716 Richmond Ave, Southwest Auto Sales, Houston, Tx 77063 to Raffy Garabed Zavzavadjian, #1107210615, 11890 Katy Fwy, Porsche of West Houston, Houston, Tx 77079. Motion was seconded by Mrs. Richardson, and approved by all members present.

Chairman Ulmer announced that the next regular meeting would be held on August 12, 2014.

Motion was made by Mr. Sanchez seconded by Mrs. Richardson, and approved by all members present, to adjourn at 2:17 p.m.

D. F. Hitzman, Lieutenant  
Secretary



# **Eid Car Care Responses to Violations**

**Presented by Craig Stewart  
Paul Kubosh and Associates**

**Listed violations causing hearing:**

Section 8-30(d) - Fencing Wall Requirement - corrective action taken, long-term solution sought

Section 8-30(i)(2) - Parts 6 inches above ground - Corrected

Section 8-30(j) - Grass 9 inches above ground - Corrected

Section 8-30(l) - Must comply with all requirements of Fire Code - Corrected

Sec. 2305.003 - Must Maintain Register of repairs - Corrected

Response to listed violations:

**Response to Violation 1**

Most of the vehicles not in compliance with 8-30(d) were not there longer than 30 days, which is permitted by 8-30(o): "*Vehicles stored less than 30 days for repairs.* For automotive repair facilities it is an affirmative defense to prosecution under subsections (c) and (d), above, that a wrecked or disabled vehicle stored thereupon is owned by a person other than the owner of the automotive repair facility, is being stored at the automotive repair facility for the purpose of its repair there and that the vehicle has been stored there for 30 days or less at the time of the alleged offense."

Most of the vehicles that have been there for more than 30 days are located within the fence of the facility, as seen in the picture below.

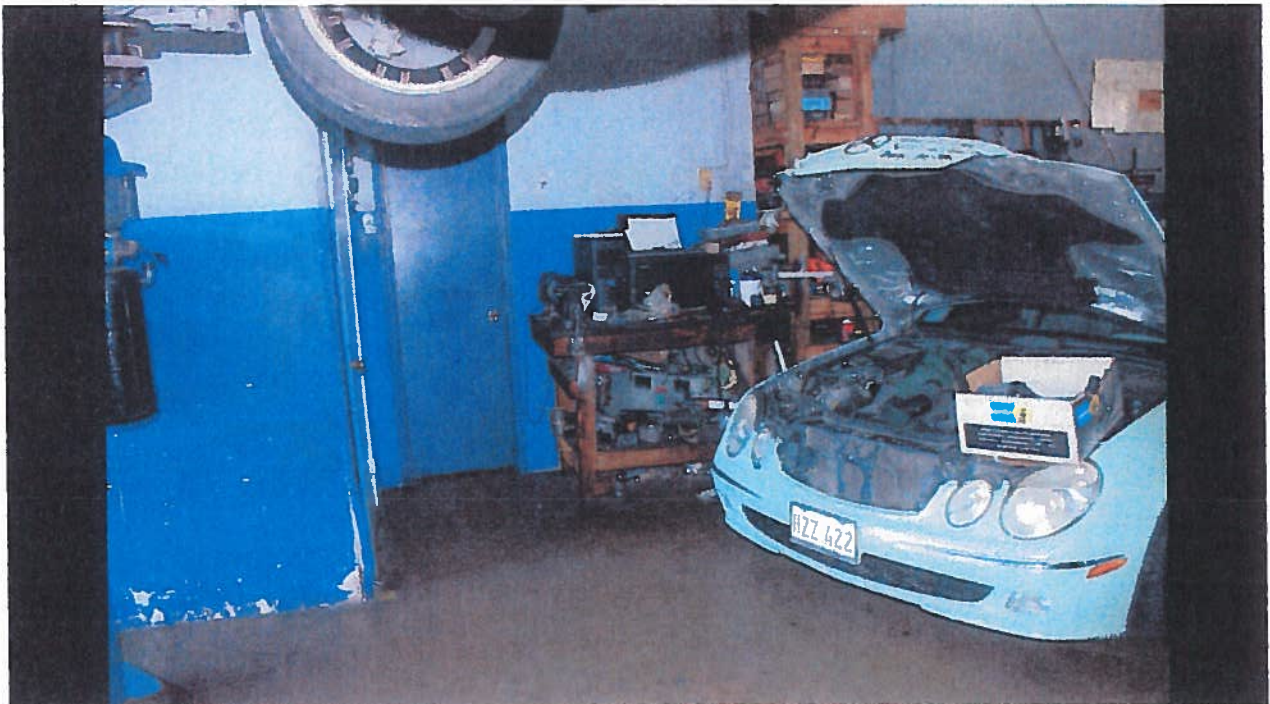


Though the landlord of the shopping center where Mr. Elias' shop is located has forbidden the installation of more fencing, Mr. Elias has tried to comply with city's fencing regulations in his current location.

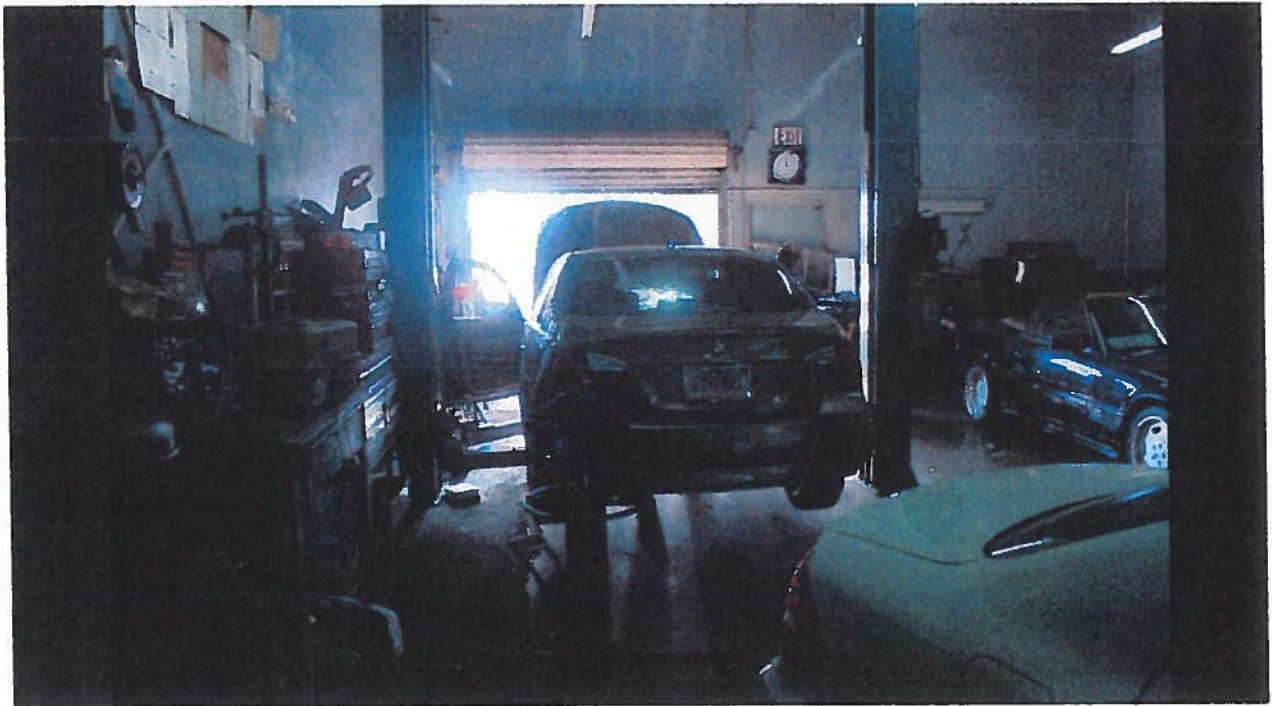
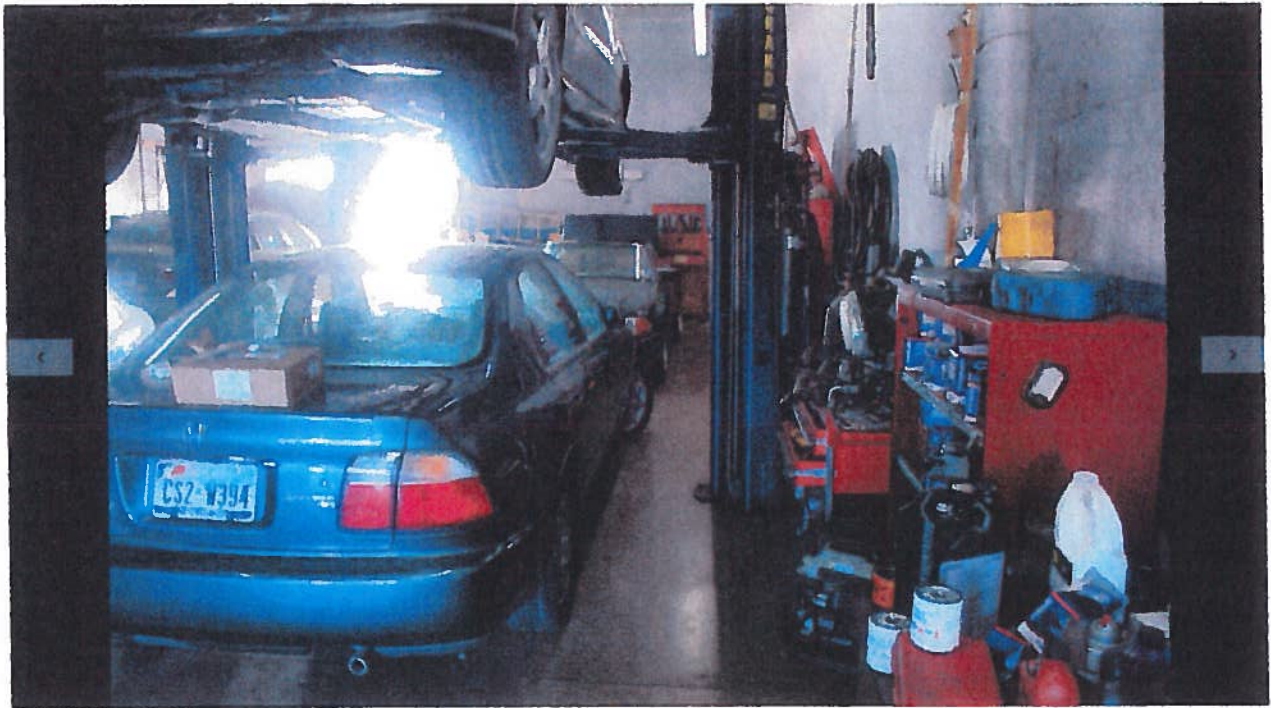
Most importantly towards reaching a long-term solution to the space limitations within the fenced-in area, Mr. Eid Elias is going through the process of having a new shop built which will be entirely surrounded by appropriate fencing. The new shop will allow all of the city regulations to be more easily followed.

**Response to Violation 2:**

Mr. Elias has built shelves and is using various cabinets, workbenches, and other accoutrement to store his tools and parts. His shop floor and the surrounds are clean and free of parts.







**Response to Violation 3:**

The grass and plants around Mr.Elias' shop are maintained and manicured. The landlord for the facility is in charge of this maintenance, and hires people to routinely mow, edge, and trim the plants. There is no overgrowth of grass or unsightly weeds.







**Response to Violation 4:**

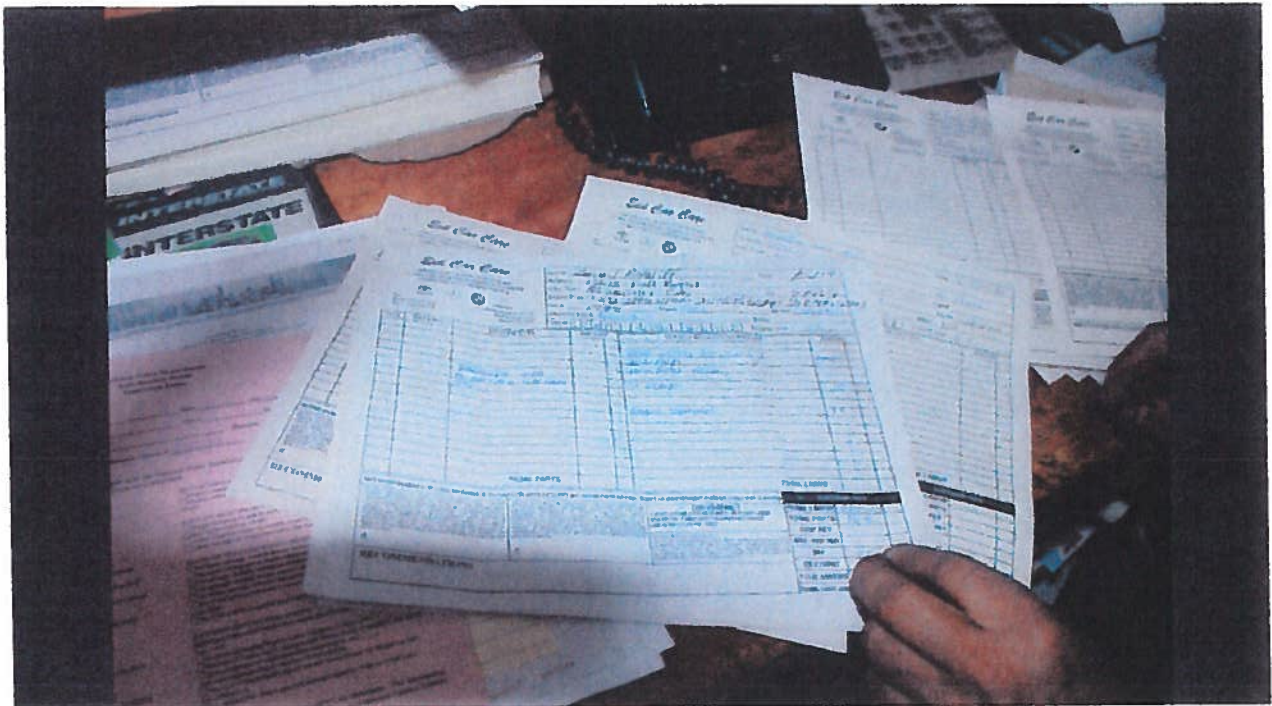
Mr. Elias is complying with all requirements of the Fire Code, for example, is properly handling oily rags. He has an industrial laundry facility clean the rags, as per TCEQ guidelines "Send shop towels to an industrial laundry service for reuse rather than disposing of them." The latest inspection of his shop did not note any violations of the Fire Code.

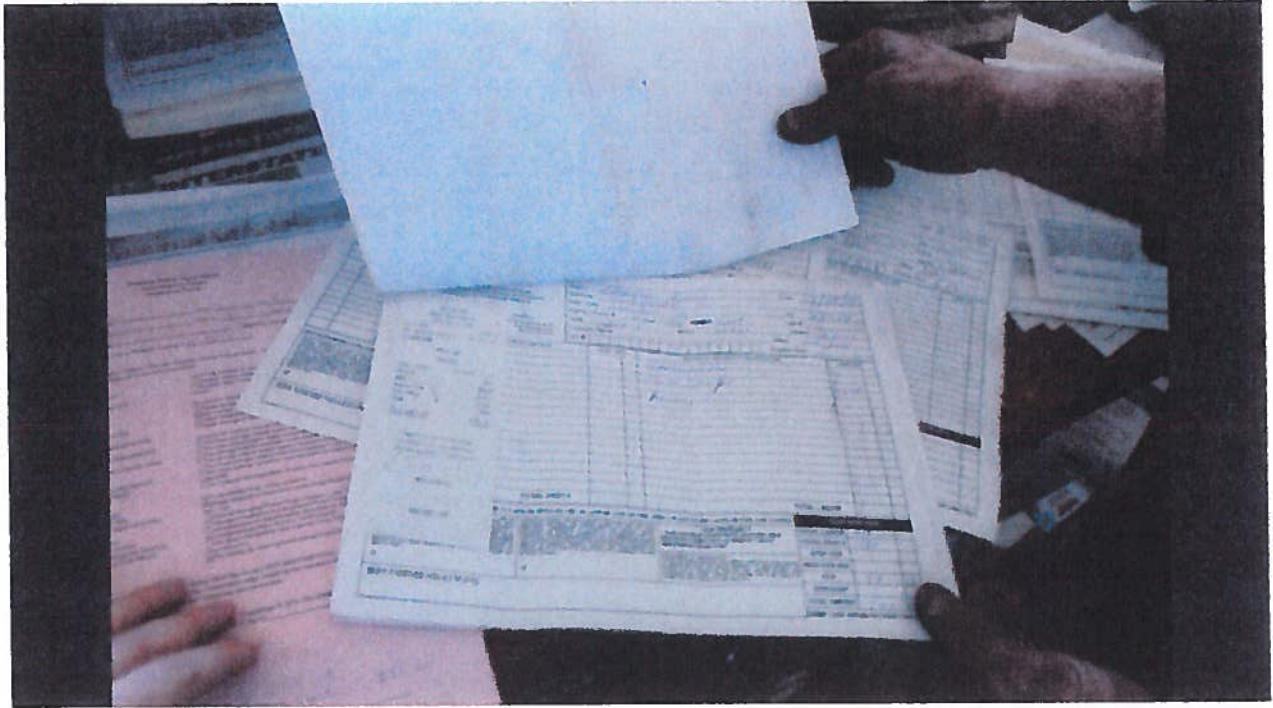


### **Response to Violation 5:**

Mr. Elias' record-keeping has become better since his last inspection, as noted by the inspector in his latest evaluation, and he is making sure he records all of the required information on his work orders.

Here are some examples of his record-keeping.





In sum, Eid Elias is seeking to abide by all laws, rules, and regulations of the City of Houston, Texas, and the United States. He has taken corrective action to fix his shop's shortcomings, and is taking long-term corrective action in getting a better location for a shop where he can build a shop to specs which will make it much easier to abide by all rules.



**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014  
District I

Item Creation Date: 10/2/2014

20HA222-AW Huff & Mitchell, Inc. - North 60-inch Condition Assessment Support Package

Agenda Item#: 44.

**Summary:**

MOTION by Council Member Costello/Seconded by Council Member Laster to adopt recommendation from Director Department of Public Works & Engineering for approval of final contract amount of \$4,232,057.02 and acceptance of work on contract with **HUFF AND MITCHELL, INC** for North 60-inch Condition Assessment Support Package - 17.60% under the original contract amount - **DISTRICT I - GALLEGOS**

**TAGGED BY COUNCIL MEMBER GREEN**

This was Item 10 on Agenda of October 1, 2014

**Background:**

**PROJECT NOTICE/JUSTIFICATION:** This project was part of the Large Diameter Water Lines Inspection, Replacement, and Rehabilitation Program and was required to provide construction and labor support for inspection of and preparation for future long-term monitoring of the existing 60-inch transmission waterline.

**DESCRIPTION/SCOPE:** This project consisted of condition assessment support; rehabilitation of air release valves, access manholes, and related appurtenances; rehabilitation of 60-inch pipe, including joint grout replacement; removal and replacement of 60-inch pre-stressed concrete cylinder pipe sections. The project also included installation of acoustic monitoring cables, confined space entry support such as air monitoring, and construction of immediate rehabilitation. Lockwood, Andrew and Newnam, Inc. designed the project with 210 calendar days allowed for construction. The project was awarded to Huff and Mitchell, Inc. with an original Contract Amount of \$5,135,970.50.

**LOCATION:** The project area is generally located along Lawndale, Satsuma, East Erath and Railroad Easements from Collier to Junius. The project is located in Key Map Grids 494 X, Y, 534 C, D, 535 A, B, F.

**CONTRACT COMPLETION and COST:** The Contractor, **HUFF & MITCHELL, INC.**, has completed the work under the subject Contract. The project was completed with an additional 72 days approved by Change Order No. 1. The final cost of the project, including overrun and underrun of estimated unit price quantities and previously approved Change Order No. 1 is \$4,232,057.02, a decrease of \$903,913.48 or 17.60% under the original Contract Amount.

The decreased cost is a result of the difference between planned and measured quantities. This decrease is primarily the result of various Base Unit Price Items and Extra Unit Price items, and Cash Allowances, which were not necessary to complete the project.

**MBE/SBE PARTICIPATION:** The MBE/SBE goal established for this project was 18%. According to Office of Business Opportunity, the participation was 9.55%. Contractor's MBE/SBE performance evaluation was rated Unsatisfactory.

**Prior Council Action:**

Ord. # 2011-0853 dated: 10/05/2011

**Amount of Funding:**








No additional funding required.

Total (original) appropriation of \$5,837,300.00 from Water and Sewer System Consolidated Construction Fund No. 8500.

**Contact Information:**

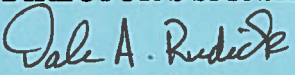

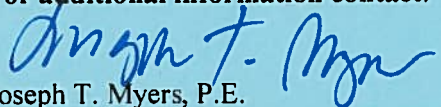

Joseph T. Myers, P.E.  
Senior Assistant Director  
**Phone:** (832) 395-2355

**ATTACHMENTS:**

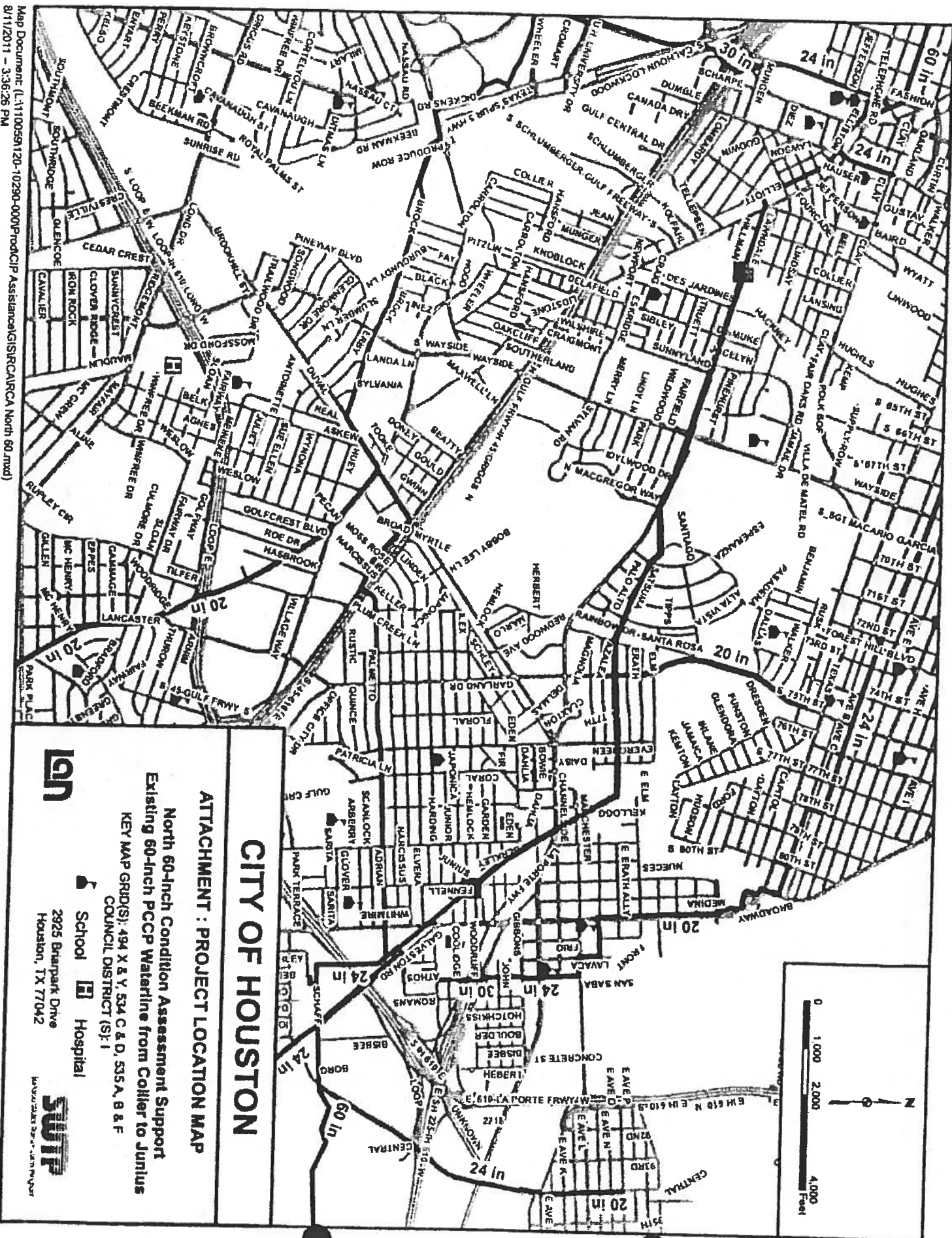
| Description   | Type               |
|---|--------------------|
|  20HA222-AW Huff & Mitchell, Inc. RCA                    | Signed Cover sheet |
|  20HA222-AW Huff & Mitchell, Inc. MAP                    | Backup Material    |
|  20HA222-AW Huff & Mitchell, Inc. PRIOR COUNCIL ACTION   | Backup Material    |
|  20HA222-AW Huff & Mitchell, Inc. OBO                    | Backup Material    |
|  20HA222-AW Huff & Mitchell, Inc. Affidavit of Ownership | Backup Material    |
|  20HA222-AW Huff & Mitchell, Inc. Delinquent Tax Report  | Backup Material    |
|  Tagged Motin  | Signed Cover sheet |

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

|  |  |   |
|--|--|---|
| <b>SUBJECT:</b> Accept Work for North 60-inch Condition Assessment Support Package; WBS No. S-000901-0007-4.   | <b>Page</b><br>1 of 2  | <b>Agenda Item</b><br>#   |
| <b>FROM (Department or other point of origin):</b><br><br>Department of Public Works and Engineering   | <b>Origination Date</b>  | <b>Agenda Date</b>  |
| <b>DIRECTOR'S SIGNATURE:</b><br><br>Dale A. Rudick, P.E., Director   | <b>Council District affected:</b><br><br>I  |   |
| <b>For additional information contact:</b><br> 9/15/14<br>Joseph T. Myers, P.E.<br>Senior Assistant Director<br><b>Phone:</b> (832) 395-2355   | <b>Date and identification of prior authorizing Council action:</b><br><br>Ord. # 2011-0853 dated: 10/05/2011                  |   |
| <b>RECOMMENDATION:</b> (Summary) Pass a motion to approve the final Contract Amount of \$4,232,057.02 or 17.60% under the original Contract Amount, accept the Work, and authorize final payment.  |  |   |
| <b>Amount and Source of Funding:</b> No additional funding required.<br>Total (original) appropriation of \$5,837,300.00 from Water and Sewer System Consolidated Construction Fund No. 8500.  |  |   |
| <b>PROJECT NOTICE/JUSTIFICATION:</b> This project was part of the Large Diameter Water Lines Inspection, Replacement, and Rehabilitation Program and was required to provide construction and labor support for inspection of and preparation for future long-term monitoring of the existing 60-inch transmission waterline.  |  |   |
| <b>DESCRIPTION/SCOPE:</b> This project consisted of condition assessment support; rehabilitation of air release valves, access manholes, and related appurtenances; rehabilitation of 60-inch pipe, including joint grout replacement; removal and replacement of 60-inch pre-stressed concrete cylinder pipe sections. The project also included installation of acoustic monitoring cables, confined space entry support such as air monitoring, and construction of immediate rehabilitations. Lockwood, Andrew and Newnam, Inc. designed the project with 210 calendar days allowed for construction. The project was awarded to Huff and Mitchell, Inc. with an original Contract Amount of \$5,135,970.50. |  |   |
| <b>LOCATION:</b> The project area is generally located along Lawndale, Satsuma, East Erath and Railroad Easements from Collier to Junius. The project is located in Key Map Grids 494 X, Y, 534 C, D, 535 A, B, F.   |  |   |
| <b>CONTRACT COMPLETION AND COST:</b> The Contractor, Huff and Mitchell, Inc., has completed the work under the subject Contract. The project was completed with an additional 72 days approved by Change Order No. 1. The final cost of the project, including overrun and underrun of estimated bid quantities and previously approved Change Order No. 1 is \$4,232,057.02, a decrease of \$903,913.48 or 17.60% under the original Contract Amount.   |  |   |
| The decreased cost is a result of the difference between planned and measured quantities. This decrease is primarily the result of underrun in various Base Unit Price Items, Extra Unit Price, and Cash Allowances, which were not necessary to complete the project.   |  |   |
| <b>M/W/SBE PARTICIPATION:</b> The M/W/SBE goal established for this project was 18%. According to Mayor's Office of Business Opportunity, the participation was 9.55%. Contractor M/W/SBE performance evaluation was rated Unsatisfactory.   |  |   |
| DAR:DRM:JTM:SKF:JP:ha<br>H:\E&C Construction\Facilities\Projects\S-000901-0007-4 (North 60 CAS)\21.0 Close Out\RCA\RCA - Closeout.doc  |  |   |
| <b>REQUIRED AUTHORIZATION</b>  |  | <b>20HA222</b>  |
| <b>Finance Department:</b>   | <b>Other Authorization:</b>  | <b>Other Authorization:</b><br><br>Daniel R. Menendez, P.E., Deputy Director<br>Engineering and Construction Division |





MOTION NO. 2014

MOTION by Council Member Costello that the recommendation of the Director of the Department of Public Works and Engineering, for approval of final contract amount and acceptance of work on contract with Huff and Mitchell, Inc., for North 60-inch Condition Assessment Support Package, WBS No. S-000901-0007-4, be adopted, and the final contract amount of \$4,232,057.02, is hereby approved by the City Council and the work be accepted and final payment is hereby authorized.

Seconded by Council Member Laster

Mayor Parker, Council Members Martin and Christie out of the City on City business

Council Member Robinson absent on City business

Mayor Pro Tem Gonzalez presiding

On 10/1/14 the above motion was tagged by Council Member Green.

cr

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

District D

20GGP9136A-Amendment to CM 2011-0029 - Parcels SY10-074, AY10-331, AY10-332A thru AY10-332D, QY10-007, and VY10-039

Agenda Item#: 45.

**Summary:**

MOTION by Council Member Stardig/Seconded by Council Member Green to **AMEND MOTION #2011-0029, 1/12/11, TO APPOINT** John Fox and David Dominy as independent appraisers to determine the fair market value for the portion of right-of-way on the north side of Wheeler Avenue, ±400 feet from the intersection of Wheeler Avenue and Calhoun Street, to ±368 feet from the intersection of Wheeler Avenue and Cullen Boulevard in exchange for fee-owned land from the University of Houston for the construction of Wheeler Street, from Scott Street east to Calhoun Road, out of the Luke Moore Survey, A-51, Parcels SY10-074, AY10-331, AY10-332A through AY10-332D, QY10-007 and VY10-039 - **DISTRICT D - BOYKINS**

**TAGGED BY COUNCIL MEMBER BOYKINS**

This was Item 14 on Agenda of October 1, 2014

**Background:**

**SPECIFIC EXPLANATION:**

By Motion 2011-0029, City Council authorized the appointment of two independent appraisers to determine fair market value of the City's property interests. Under the motion, the value of the City's property interests is to be established by Alan Dominy and Tom Edmonds. The independent appraisers, Alan Dominy and Tom Edmonds, cannot complete the appraisal assignment.

Therefore, it is recommended City Council amend Motion 2011-0029 by appointing John Fox and David Dominy, independent real estate appraisers, to establish the value.

**Prior Council Action:**

C.M. 2011-0029 (01/12/2011)

**Contact Information:**

Nancy P. Collins

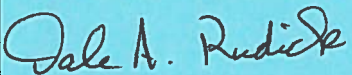


Senior Assistant Director-Real Estate

**Phone:** (832) 395-3130

**ATTACHMENTS:**

| Description  | Type                        |
|--|-----------------------------|
| <input type="checkbox"/> 20GG9136A - Amend CM 2011-0029 RCA  | Backup Material             |
| <input type="checkbox"/> 20GG9136A - Amend CM 2011-0029 Maps   | Backup Material             |
| <input type="checkbox"/> 20GG9136A-Amendment to CM 2011-0029 - Parcels SY10-074, AY10-331, AY10-332A thru AY10-332D, QY10-007, and VY10-039 PRIOR COUNCIL ACTION | Ordinance/Resolution/Motion |
| <input type="checkbox"/> Tagged Motin  | Signed Cover sheet          |



|   |  |  |                      |
|---|--|--|----------------------|
| <b>SUBJECT:</b> Amendment to Council Motion 2011-0029. <b>Parcels</b> SY10-074, AY10-331, AY10-332A through AY10-332D, QY10-007, and VY10-039   |  | <b>Page</b><br>1 of 1  | <b>Agenda Item #</b> |
| <b>FROM (Department or other point of origin):</b><br><br>Department of Public Works and Engineering  |  | <b>Origination Date</b>  | <b>Agenda Date</b>   |
| <b>DIRECTOR'S SIGNATURE:</b><br><br><br>Dale A. Rudick, P.E., Director   |  | <b>Council District affected:</b> D<br><br><br><b>Key Map:</b> 534A |                      |
| <b>For additional information contact:</b><br><br>Nancy P. Collins  Phone: (832) 395-3130<br>Senior Assistant Director-Real Estate   |  | <b>Date and identification of prior authorizing Council Action:</b><br><br>C.M. 2011-0029 (01/12/2011)   |                      |
| <b>RECOMMENDATION: (Summary)</b> It is recommended City Council amend Motion 2011-0029, which authorized the appointment of two independent appraisers to determine fair market value of the City's property interests, by replacing Alan Dominy and Tom Edmonds with John Fox and David Dominy as independent appraisers. <b>Parcels SY10-074, AY10-331, AY10-332A through AY10-332D, QY10-007, and VY10-039</b> |  |  |                      |
| <b>Amount and Source of Funding:</b> Not Applicable   |  |  |                      |

**SPECIFIC EXPLANATION:**

By Motion 2011-0029, City Council authorized the appointment of two independent appraisers to determine fair market value of the City's property interests. Under the motion, the value of the City's property interests is to be established by Alan Dominy and Tom Edmonds. The independent appraisers, Alan Dominy and Tom Edmonds, cannot complete the appraisal assignment.

Therefore, it is recommended City Council amend Motion 2011-0029 by appointing John Fox and David Dominy, independent real estate appraisers, to establish the value.

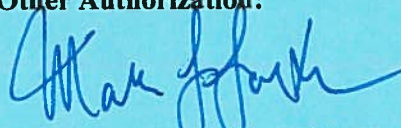
DAR:NPC:tp

c: Jun Chang, P.E., D.WRE  
Marta Crinejo  
David Feldman  
Terry A. Garrison  
Daniel Menendez, P.E.  
Patrick Walsh, P.E.  
Jeffrey Weatherford, P.E., PTOE

z:\tp\sy10-074.rca1.appr.doc

CUIC #20GG9136A

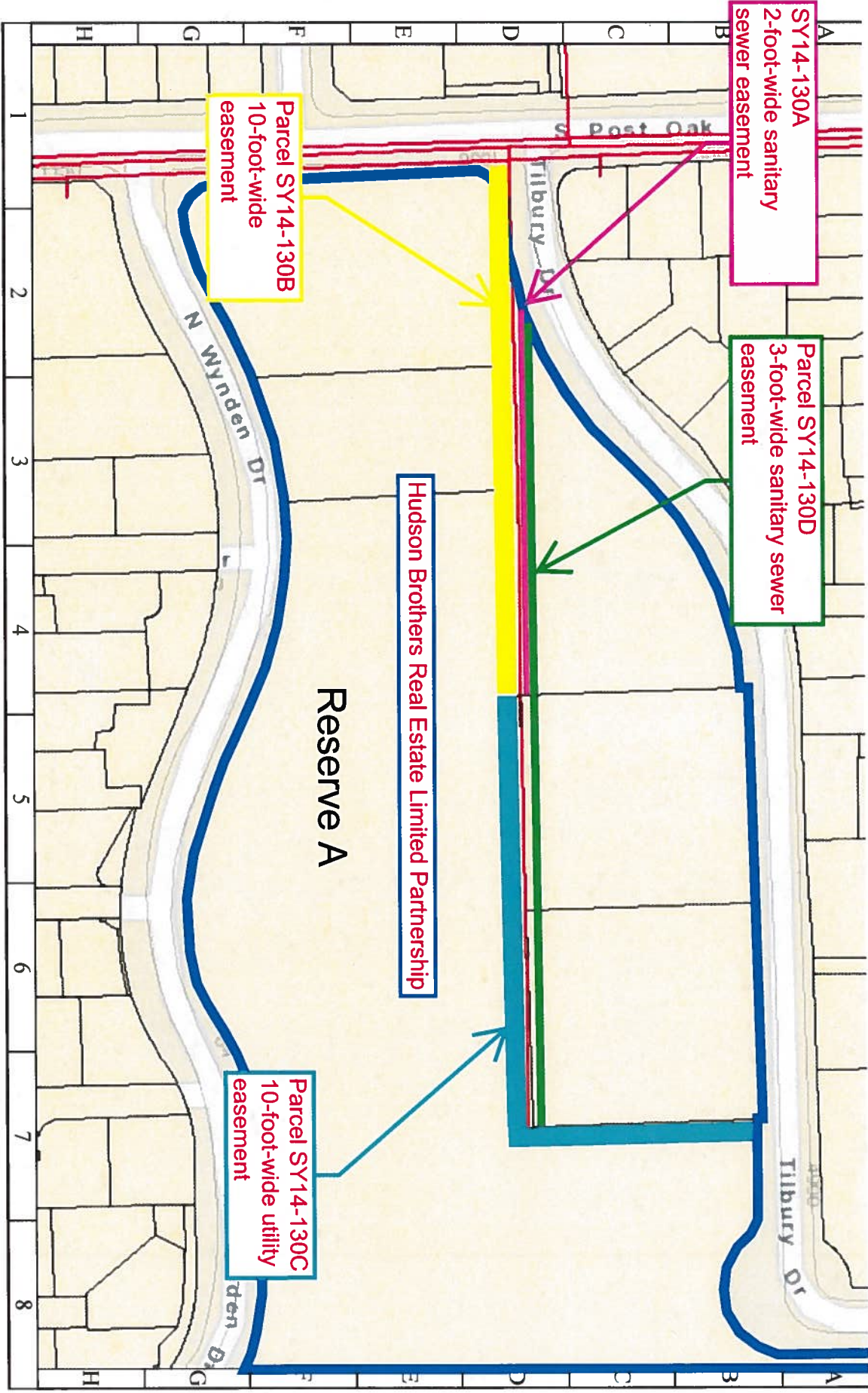
**REQUIRED AUTHORIZATION**

|                            |                             |  |
|----------------------------|-----------------------------|--|
| <b>Finance Department:</b> | <b>Other Authorization:</b> | <b>Other Authorization:</b><br><br><br>Mark L. Loethen, P.E., CFM, PTOE<br>Deputy Director<br>Planning and Development Services Division |
|----------------------------|-----------------------------|--|



Parcel Map

Abandonment and sale of: 1) a 2-foot-wide sanitary sewer easement, from  $\pm 150$  feet east of the northeast property line of Reserve A east  $\pm 250$  feet; 2) a 10-foot-wide easement, from the northeast property line of Reserve A east  $\pm 425$  feet; 3) a 10-foot-wide utility easement, from  $\pm 425$  feet east of the northeast property line of Reserve A east  $\pm 425$  feet, then north to Tilbury Drive; and 4) a 3-foot-wide sanitary sewer easement, from the northeast property line of Reserve A east  $\pm 400$  feet, all located within the West Oaks Subdivision, out of the William White Survey. Parcels SY14-130A through SY14-130D



CITY OF HOUSTON

Department of Public Works and Engineering  
Geographic Information & Management System (GIMS)

DISCLAIMER: THIS MAP REPRESENTS THE BEST INFORMATION AVAILABLE TO THE CITY.  
THE CITY DOES NOT WARRANT ITS ACCURACY OR COMPLETENESS.  
FIELD VERIFICATIONS SHOULD BE DONE AS NECESSARY.






[illegible][illegible]

1. JACK R. CHILES, SR., HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM A SURVEY PERFORMED ON THE GROUND UNDER MY SUPERVISION, AND THAT SAID SURVEY SUBSTANTIALLY MEETS THE CURRENT STANDARDS FOR PROFESSIONAL LAND SURVEYING AS GOVERNED BY THE PROFESSIONAL LAND SURVEYING PRACTICES ACT EFFECTIVE SEPTEMBER 1, 1991, AND AMENDED SEPTEMBER 1, 1998.

JACK R. CHAFFS SR. R.P.L.S. # 4778



**CITY OF HOUSTON**  
**PUBLIC WORKS AND**  
**ENGINEERING DEPARTMENT**

**WITHOUT AWARD ALLOCATION SEEMINGLY THE PROPOSED RIGHT OF WAY ACQUISITION FROM SCOTT STREET TO CALHOUN STREET**

**TO:** SCOTT STREET

**DATE:** \_\_\_\_\_

**RIGHT OF WAY CENTER**

**KEY MAP AND LOTS:**

**CONTRACT NO.:** 44-228-1

**CDT NO.:** \_\_\_\_\_

**DATE:** 06/09/2010

**SHEET:** BT, AC, AD

**DRAWN BY:** AKC

**C.B. #** 215

**CALCULAT** = 120'

**DATE SENT TO: STAFF**

# City Of Houston Council District D Dwight Boykins

## Legend

- Waterway
- District D

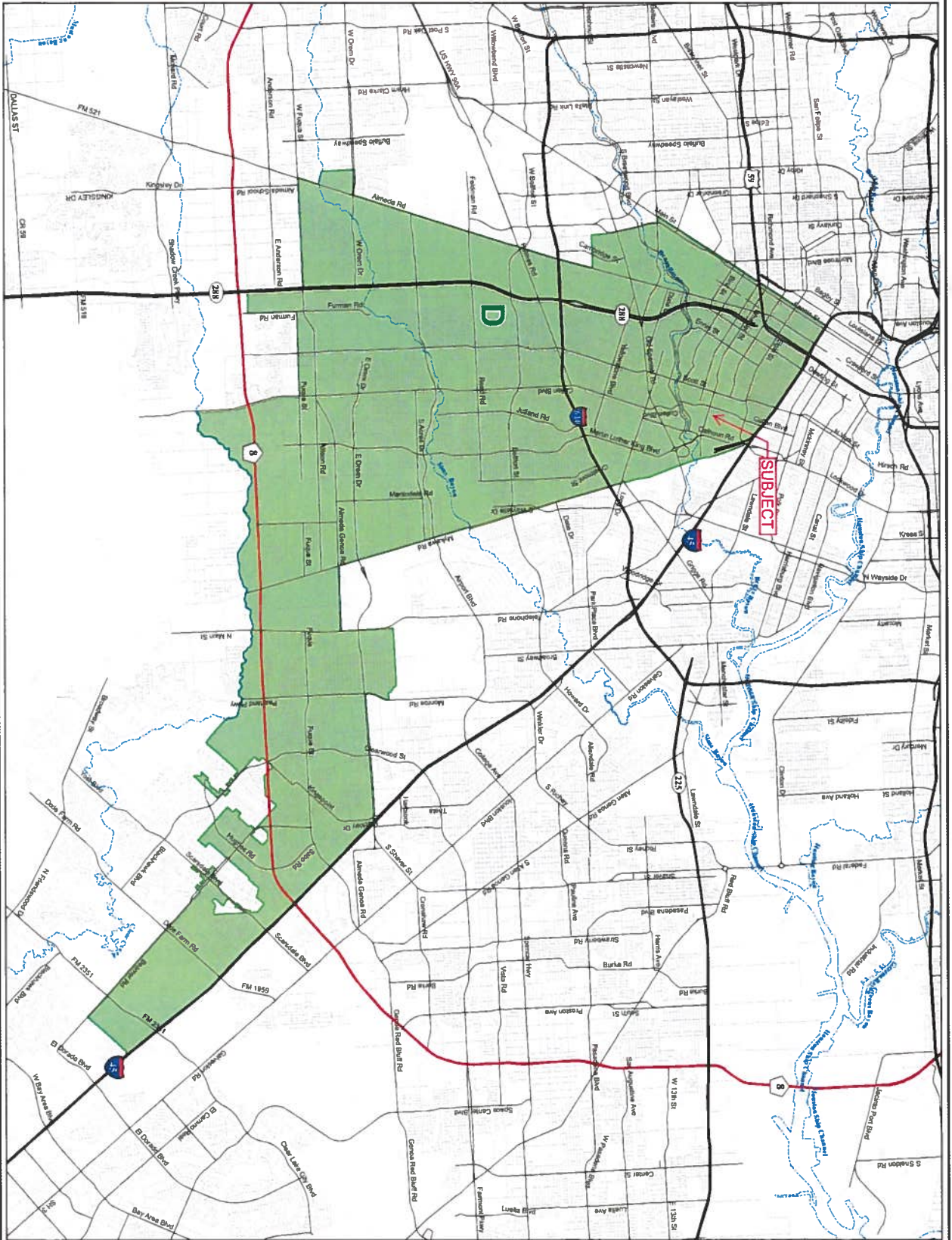
Amendment to Council Motion  
2011-0029, Parcels SY10-074,  
AY10-331, AY10-332A through  
AY10-332D, QY10-007, and VY10-039



0 0.25 0.5 1 Miles

Source: GIS Services Division  
Date: January 2014  
Reference: p17375\_D

This map is made available for  
reference purposes only and  
should not be substituted for a  
survey product. The City of  
Houston will not accept liability of  
any kind in conjunction with its use.



MOTION by Council Member Lovell that the recommendation of the Director Department of Public Works and Engineering, relative the appointment of appraisers to determine the fair market value of a portion of the property known as Wheeler Avenue and Calhoun Street, Parcels SY10-074A, SY10-074B, AY10-331, AY10-332A through AY10-332D, AY10-333, QY10-007 and VY10-039, be adopted, and the City Council hereby appoints Alan Dominy and Tom Edmonds, independent appraisers, to determine the fair market value for the portion of right-of-way on the north side of Wheeler Avenue,  $\pm 400$  feet from the intersection of Wheeler Avenue and Calhoun Street, to  $\pm 368$  feet from the intersection of Wheeler Avenue and Cullen Boulevard, in exchange for fee-owned land from the University of Houston for the construction of Wheeler Street, from Scott Street east to Calhoun Road, out of the Luke Moore Survey, A-51, inasmuch as the value of the City's property interests are expected to exceed \$1,000,000.00.

Seconded by Council Member Gonzalez and carried.

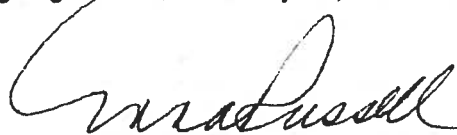
Mayor Parker, Council Members Stardig, Johnson,  
Clutterbuck, Adams, Sullivan, Pennington, Gonzalez,  
Rodriguez, Costello, Lovell, Noriega and Jones voting aye  
Nays none

Council Member Hoang absent on City business

Council Member Bradford out of the City

PASSED AND ADOPTED this 12th day of January, 2011.

Pursuant to Article VI, Section 6 of the City Charter, the  
effective date of the foregoing motion is January 18, 2011.

  
City Secretary

MOTION by Council Member Stardig that the recommendation of the Director of the Department of Public Works and Engineering, amendment to Council Motion 2011-0029 relative to the appointment of appraisers to determine the fair market value of a portion of the property known as Wheeler Avenue and Calhoun Street, Parcels SY10-074, AY10-331, AY10-332A through AY10-332D, QY10-007 and VY10-039, be adopted, and Motion 2011-0029 is hereby amended to appoint John Fox and David Dominy, independent real estate appraisers, to determine the fair market value for the portion of right-of-way on the north side of Wheeler Avenue,  $\pm 400$  feet from the intersection of Wheeler Avenue and Calhoun Street, to  $\pm 368$  feet from the intersection of Wheeler Avenue and Cullen Boulevard in exchange for fee-owned land from the University of Houston for the construction of Wheeler Street, from Scott Street east to Calhoun Road, out of the Luke moore Survey, A-51.

Seconded by Council Member Green

Mayor Parker, Council Members Martin and Christie out of the City on City business

Council Member Robinson absent on City business

Mayor Pro Tem Gonzalez presiding

On 10/1/14 the above motion was tagged by Council Member Boykin.

cr

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

ALL

Item Creation Date: 9/17/2014

10222- Approve an Ordinance Awarding a Contract to the Best Respondents for the Temporary Employee Services Program for the Human Resources Department/S33-T25055

Agenda Item#: 46.

**Summary:**

ORDINANCE approving and authorizing contracts between the City of Houston and **A-1 PERSONNEL OF HOUSTON, INC, AT WORK STAFFING, INC, EXECUTEAM STAFFING L.P., ICON INFORMATION CONSULTANTS, L.P., LANESTAFFING, INC, SILVER & ASSOCIATES CONSULTING, INC, SMITH & DEAN, INC d/b/a DEAN'S PROFESSIONAL SERVICES, TOPP KNOTCH PERSONNEL, INC, and MSHANA GROUP LLC d/b/a ARIES PRO** for Temporary Employee Staffing Services and Information Technology Staffing Resources; providing a maximum contract amount - 3 Years with two one-year options - \$75,000,000.00 Central Services Revolving Fund

**DELAYED BY MOTION #2014-900, 10/1/14**

This was Item 43 on Agenda of October 1, 2014

**Background:**

The Director of the Human Resources Department and City Purchasing Agent recommend City Council approve an ordinance awarding a three-year contract, with two one-year options in an amount not to exceed \$75,000,000 for the Temporary Employee Services Program administered by the Human Resources Department. The HR Director may terminate this contract at any time upon 30-days written notice to the contractor.

The HR Department has had responsibility for the temporary employee services program since the early 1980s. HR's Temporary Employee Services Program (HRTES) section assists customer city departments with the acquisition of temporary employees and information technology staffing resources. HRTES performs all acquisition and ongoing contract administration tasks, which allows city departments to focus on their project tasks and deadlines.

The scope of work for the contract requires the contractor to provide all labor, materials and supervision necessary to provide temporary employees to various city departments.

This Request for Proposal (RFP) was advertised in accordance with the requirements of the State of Texas bid laws. One-hundred fifty-two (152) prospective bidders downloaded the solicitation document from the Strategic Procurement Division's (SPD) e-bidding system.

Proposals were received from:

22nd Century Technology  
A-1 Personnel of Houston  
ACRO  
Advanced Temporaries  
AriesPro  
At Work Staffing  
Corporate Staffing  
Eccentex Corporation  
Employment and Training  
Enterprise Logic  
Everfind  
ExecuTeam Staffing  
GeoControl Systems  
ICON Information Consultants  
Isymphony  
LaneStaffing  
S&R Professionals  
Silver & Associates  
Smith & Dean

Taylor Smith Consulting  
 Techcellence  
 TexcelVision  
 Topp Knotch Personnel

The Evaluation Committee consisted of eight evaluators from various Departments. The proposals were evaluated based upon the following criteria:

1. Quality of response submitted (all required documents and questions addressed)
2. Strategy to perform the Scope of Work and transitional plan
3. Experience and success in performing similar services for other entities
4. Experience of the proposed managerial and account processing team
5. Ability to timely offer qualified temporary employees
6. Invoicing/Reporting/Technological ability
7. Financial strength of proposer
8. Reasonableness of cost projections
9. Value added services

All proposals were evaluated under a comprehensive set of parameters. The FY15 process selected agencies providing set pay-rolling, regular agency and IT personnel markups. FY15 utilization of \$8,000,000 is less than 1 % of total city salary expense.

The evaluation of all proposals submitted by interested agencies resulted in the following recommendation by the HR Department that the City of Houston contract with the following administrative/industrial temporary and information technology staffing agencies.

| <b>Administrative / Industrial</b>                     | <b>Information Technology</b>                          |
|--|--|
| *A-1 Personnel of Houston, Inc.                        | *A-1 Personnel of Houston, Inc.                        |
| ***At Work Staffing, Inc.                              | **ICON Information Consultants, LP                     |
| *ExecuTeam Staffing L.P.                               | ***Smith & Dean, Inc. DBA Dean's Professional Services |
| **ICON Information Consultants, LP                     | ***Mshana Group LLC DBA AriesPro**                     |
| ***LaneStaffing, Inc.                                  |  |
| ***Silver & Associates Consulting, Inc.                |  |
| ***Smith & Dean, Inc. DBA Dean's Professional Services |  |
| ***Topp Knotch Personnel, Inc.                         |  |

\*Indicates that these vendors are “graduates” of the city’s MWDBE program.

\*\*Indicates at the time of award these vendors were new to the citywide temporary employee services program.

\*\*\*Certified M/W/DBE vendor.

The M/W/DBEs (55%) designated agencies are certified by the Office of Business Opportunity.

The recommended agencies will allow the city to continue to utilize the best value pricing and the best low cost bill rate and pay-rolling percentage within the markup parameters. If the agency can supply our demand, then the city obtains the best low cost. If the agency cannot meet our demands, the next agency with the lowest cost is used. The FY15 evaluation process continues to focus on cost, quality personnel, and processing improvements.

All charges for temporaries are billed back to the departments requesting temporaries. Strict monitoring and reporting procedures are in effect to control normal and ordinary utilization of temporary employees.

The proposed mix of recommended agencies provides a comprehensive set of temporary employee services. Other considerations include:

1. Budget neutral as departments must have budget adequacy to utilize contract authority
2. No operational disruptions to the department
3. Continuity of existing projects
4. Risk management and disaster planning considerations
5. A better socio-economic situation when factors such as employee and agency retention are taken into consideration

#### **M/WBE Subcontracting:**



This RFP was issued as a goal-oriented contract with a 5% M/WBE participation level. The prime contractors have designated the below-named companies as its certified M/WBE subcontractors.

| Prime Contractor                                     | M/WBE Vendor                         | Type of Work       | MWBE % |
|--|--------------------------------------|--------------------|--------|
| A-1 Personnel of Houston, Inc.                       | AK Consulting Services, Inc.         | Temporary Services | 5%     |
| At Work Staffing, Inc.*                              | Office Effect                        | Temporary Services | 5%     |
| ExecuTeam Staffing L.P.                              | Kingwood Personnel                   | Temporary Services | 5%     |
| ICON Information Consultants, LP                     | Advancetech System 2, Inc            | Temporary Services | 5%     |
| LaneStaffing, Inc.*                                  | Jacobs Business Solutions, Inc.      | Temporary Services | 5%     |
| Mshana Group LLC DBA AriesPro*                       | Arrati Inc. DBA Texcel Vision        | Temporary Services | 5%     |
| Silver & Associates Consulting, Inc.*                | Diverse Consulting Enterprises, Inc. | Temporary Services | 5%     |
| Smith & Dean, Inc. DBA Dean's Professional Services* | Virtual Intelligence Provider, LLC   | Temporary Services | 5%     |
| Topp Knotch Personnel, Inc.*                         | 4 W Solutions, Inc                   | Temporary Services | 5%     |

**\*Certified M/WBE vendor**

The Office of Business Opportunity will monitor these contracts.

**Pay or Play Program:**

The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides benefits for some employees but will pay into the Contractor Responsibility Fund for others, in compliance with City policy.

**Hire Houston First:**

The proposed contract requires compliance with the City's 'Hire Houston First' ordinance that promotes economic opportunity for Houston businesses and supports job creation. In this case, the proposed contractor meets the requirements of Hire Houston First.

**Estimated Spending Authority**

| Department      | FY15        | Out Years    | Total Amount |
|-----------------|-------------|--------------|--------------|
| Human Resources | \$8,000,000 | \$67,000,000 | \$75,000,000 |

**Amount of Funding:**

\$75,000,000 - Central Services Revolving Fund (1002)

**Source of Funding:**

Other (Specify)

Central Services Revolving Fund

**Contact Information:**

| NAME:   | DEPARTMENT/DIVISION | PHONE          |
|---|---------------------|----------------|
| Ramiro Cano, Deputy Director                  | HR                  | (832) 393-6060 |
| Conley Jackson, Senior Procurement Specialist | FIN/SPD             | (832) 393-8733 |

**ATTACHMENTS:**

Description

Type

|   |                            |                             |
|---|----------------------------|-----------------------------|
| ❏ | RCA                        | Backup Material             |
| ❏ | Backup Briefing Document   | Backup Material             |
| ❏ | A-1 Fair Campaign          | Backup Material             |
| ❏ | AiresPro Fair Campaign     | Backup Material             |
| ❏ | At Work Fair Campaign      | Backup Material             |
| ❏ | Dean Fair Campaign         | Backup Material             |
| ❏ | Executeam Fair Campaign    | Backup Material             |
| ❏ | Topp Knotch- Fair Campaign | Backup Material             |
| ❏ | ICON Fair Campaign         | Backup Material             |
| ❏ | LaneStaffing Fair Campaign | Backup Material             |
| ❏ | Silver Fair Campaign       | Backup Material             |
| ❏ | Departamental Approval     | Backup Material             |
| ❏ | Form B (Fair Campaign)     | Backup Material             |
| ❏ | Delayed Motion 2014 0900   | Ordinance/Resolution/Motion |



**REQUEST FOR COUNCIL ACTION****TO: Mayor via City Secretary****RCA# 10222****Subject: Approve an Ordinance Awarding a Contract to the Best Respondents for the Temporary Employee Services Program for the Human Resources Department/S33-T25055**Category #  
4

Page 1 of 3

Agenda Item  
  
29**FROM (Department or other point of origin):**Calvin D. Wells  
City Purchasing Agent  
Finance Department**Origination Date**

September 12, 2014

**Agenda Date**

SEP 24 2014

**DIRECTOR'S SIGNATURE**

For additional information contact:

Ramiro Cano Phone: (832) 393-6060  
Conley Jackson Phone: (832) 393-8733**Council District(s) affected**  
All**Date and Identification of prior authorizing Council Action:****RECOMMENDATION: (Summary)**

Approve an ordinance awarding contracts for 3 years with 2 additional one year options to multiple vendors for the citywide temporary employee services program administered by the Human Resources Department. Funding for remainder of FY 2015 is \$8,000,000 with Out Years of \$67,000,000.

Maximum Contract Amount:\$75,000,000

**Finance Budget**

\$75,000,000 - Central Services Revolving Fund (1002)

**SPECIFIC EXPLANATION:**

The Director of the Human Resources Department and City Purchasing Agent recommend City Council approve an ordinance awarding a three-year contract, with two one-year options in an amount not to exceed \$75,000,000 for the Temporary Employee Services Program administered by the Human Resources Department. The HR Director may terminate this contract at any time upon 30-days written notice to the contractor.

**BACKGROUND:**

The HR Department has had responsibility for the temporary employee services program since the early 1980s. HR's Temporary Employee Services Program (HRTES) section assists customer city departments with the acquisition of temporary employees and information technology staffing resources. HRTES performs all acquisition and ongoing contract administration tasks, which allows city departments to focus on their project tasks and deadlines.

The scope of work for the contract requires the contractor to provide all labor, materials and supervision necessary to provide temporary employees to various city departments.

This Request for Proposal (RFP) was advertised in accordance with the requirements of the State of Texas bid laws. One-hundred fifty-two (152) prospective bidders downloaded the solicitation document from the Strategic Procurement Division's (SPD) e-bidding system.

Proposals were received from:

22<sup>nd</sup> Century Technology  
A-1 Personnel of Houston  
ACRO  
Advanced Temporaries  
AriesPro  
At Work Staffing  
Corporate Staffing  
Eccentex Corporation  
Employment and Training  
Enterprise Logic  
Everfind

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

|                    |   |                                |             |
|--------------------|---|--------------------------------|-------------|
| Date:<br>9/12/2014 | Subject: Approve an Ordinance Awarding a Contract to the Best Respondents for the Temporary Employee Services Program for the Human Resources Department/S33-T25055 | Originator's<br>Initials<br>CJ | Page 2 of 3 |
|--------------------|---|--------------------------------|-------------|

ExecuTeam Staffing  
GeoControl Systems  
ICON Information Consultants  
Isymphony  
LaneStaffing  
S&R Professionals  
Silver & Associates  
Smith & Dean  
Taylor Smith Consulting  
Techcellence  
TexcelVision  
Topp Knotch Personnel

The Evaluation Committee consisted of eight evaluators from various Departments. The proposals were evaluated based upon the following criteria:

1. Quality of response submitted (all required documents and questions addressed)
2. Strategy to perform the Scope of Work and transitional plan
3. Experience and success in performing similar services for other entities
4. Experience of the proposed managerial and account processing team
5. Ability to timely offer qualified temporary employees
6. Invoicing/Reporting/Technological ability
7. Financial strength of proposer
8. Reasonableness of cost projections
9. Value added services

All proposals were evaluated under a comprehensive set of parameters. The FY15 process selected agencies providing set pay-rolling, regular agency and IT personnel markups. FY15 utilization of \$8,000,000 is less than 1 % of total city salary expense.

The evaluation of all proposals submitted by interested agencies resulted in the following recommendation by the HR Department that the City of Houston contract with the following administrative/industrial temporary and information technology staffing agencies.

| <b>Administrative / Industrial</b>                     | <b>Information Technology</b>                          |
|--|--|
| *A-1 Personnel of Houston, Inc.                        | *A-1 Personnel of Houston, Inc.                        |
| ***At Work Staffing, Inc.                              | **ICON Information Consultants, LP                     |
| *ExecuTeam Staffing L.P.                               | ***Smith & Dean, Inc. DBA Dean's Professional Services |
| **ICON Information Consultants, LP                     | ***Mshana Group LLC DBA AriesPro**                     |
| ***LaneStaffing, Inc.                                  |  |
| ***Silver & Associates Consulting, Inc.                |  |
| ***Smith & Dean, Inc. DBA Dean's Professional Services |  |
| ***Topp Knotch Personnel, Inc.                         |  |

\*Indicates that these vendors are "graduates" of the city's MWDBE program.

\*\*Indicates at the time of award these vendors were new to the citywide temporary employee services program.

\*\*\*Certified M/W/DBE vendor.

The M/W/DBEs (55%) designated agencies are certified by the Office of Business Opportunity.

The recommended agencies will allow the city to continue to utilize the best value pricing and the best low cost bill rate and pay-rolling percentage within the markup parameters. If the agency can supply our demand, then the city obtains the

|                    |   |                                |             |
|--------------------|---|--------------------------------|-------------|
| Date:<br>9/12/2014 | Subject: Approve an Ordinance Awarding a Contract to the Best Respondents for the Temporary Employee Services Program for the Human Resources Department/S33-T25055 | Originator's<br>Initials<br>CJ | Page 3 of 3 |
|--------------------|---|--------------------------------|-------------|

best low cost. If the agency cannot meet our demands, the next agency with the lowest cost is used. The FY15 evaluation process continues to focus on cost, quality personnel, and processing improvements.

All charges for temporaries are billed back to the departments requesting temporaries. Strict monitoring and reporting procedures are in effect to control normal and ordinary utilization of temporary employees.

The proposed mix of recommended agencies provides a comprehensive set of temporary employee services. Other considerations include:

1. Budget neutral as departments must have budget adequacy to utilize contract authority
2. No operational disruptions to the department
3. Continuity of existing projects
4. Risk management and disaster planning considerations
5. A better socio-economic situation when factors such as employee and agency retention are taken into consideration

#### **MWBE Subcontracting:**

This RFP was issued as a goal-oriented contract with a 5% MWBE participation level. The prime contractors have designated the below-named companies as its certified MWBE subcontractors.

| Prime Contractor                                     | MWBE Vendor                          | Type of Work       | MWBE % |
|--|--------------------------------------|--------------------|--------|
| A-1 Personnel of Houston, Inc.                       | AK Consulting Services, Inc.         | Temporary Services | 5%     |
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\*Certified MWBE vendor

The Office of Business Opportunity will monitor these contracts.

#### **Pay or Play Program:**

The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides benefits for some employees but will pay into the Contractor Responsibility Fund for others, in compliance with City policy.

#### **Hire Houston First:**

The proposed contract requires compliance with the City's 'Hire Houston First' ordinance that promotes economic opportunity for Houston businesses and supports job creation. In this case, the proposed contractor meets the requirements of Hire Houston First.

#### **Estimated Spending Authority**

| Department      | FY15        | Out Years    | Total Amount |
|-----------------|-------------|--------------|--------------|
| Human Resources | \$8,000,000 | \$67,000,000 | \$75,000,000 |

# **TEMPORARY EMPLOYEE SERVICES PROGRAM**

HUMAN RESOURCES DEPARTMENT  
BRIEF AND RECOMMENDATION  
FY2015 – FY2020

COUNCIL MEMBER BRIEF  
SEPTEMBER 24, 2014

Omar C. Reid, Human Resources Director

**City of Houston  
Temporary Employee Services Program  
Brief and Recommendation  
September 24, 2014**

1. Program Recommendation for FY2015 through FY2020
2. RFP Evaluation and Selection Process
3. Background
4. Key Points
5. RCA Anticipated Date
6. Frequently Asked Questions (FAQ)

**City of Houston**  
**Temporary Employee Services Program**  
**Fiscal Affairs Committee Brief and Recommendation**  
**September 24, 2014**

1. **Program Recommendations for FY2015 through FY2020:** The Human Resources (HR) Department is recommending City Council award twelve (12) contracts and approve \$15,000,000 annual spending in contract authority to cover a 3 year term with 2 option years to the following temporary employee and information technology staffing agencies.

| Administrative / Industrial (1-8) |  |       | Information Technology (9-12) |  |       |
|-----------------------------------|--|-------|-------------------------------|--|-------|
| 1                                 | LaneStaffing, Inc.                                     | MWDBE | 9                             | A-1 Personnel of Houston, Inc.                         | *     |
| 2                                 | A-1 Personnel of Houston, Inc.                         | *     | 10                            | ICON Information Consultants, LP **                    |       |
| 3                                 | At Work Staffing, Inc.                                 | WBE   | 11                            | Mshana Group LLC DBA AriesPro **                       | MWDBE |
| 4                                 | Topp Knotch Personnel, Inc.                            | MWDBE | 12                            | Smith & Dean, Inc. DBA Dean's Professional Services ** | MWDBE |
| 5                                 | Silver & Associates Consulting, Inc.                   | MDBE  |                               |  |       |
| 6                                 | ICON Information Consultants, LP **                    |       |                               |  |       |
| 7                                 | ExecuTeam Staffing L.P.                                | *     |                               |  |       |
| 8                                 | Smith & Dean, Inc. DBA Dean's Professional Services ** | MWDBE |                               |  |       |

The MWDBEs (55%) designated agencies are certified by the Office of Business Opportunity Department.

\* indicates that these vendors are “graduates” of the city’s MWDBE program.

\*\* indicates that these vendors are new to the citywide temporary employee services program.

Temporary employee and information technology staffing services are provided as requested by departments.

2. **RFP Evaluation and Selection Process:** HR released a Request for Proposals (RFP) on June 13, 2014 for temporary employee staffing and information technology staffing services for the purpose of providing staffing services to city departments on an as-needed-basis.

HR received a total of 29 viable proposals (Admin – 18 proposals, IT – 11 proposals). Proposals were evaluated based on the noted criteria below:

- A. Quality of response submitted (all questions addressed)
- B. Strategy to perform the scope of work and transitional plan
- C. Experience and success in performing similar services for other entities
- D. Experience of the proposed managerial and account processing team
- E. Ability to timely offer qualified temporary employees
- F. Invoicing/reporting/technological ability
- G. Financial strength of proposer

## H. Value added services

In addition, the vendors were asked to submit a proposal for a turn-key Managed Services Provider Program. This type program manages the entire program with their (agency) personnel. It was determined that having a Managed Services Provider Program would not be cost effective for the City. The internal overhead is 3% to 5% of cost, while one proposal of three indicated a lower overhead %, the markup was significantly higher for the temporary personnel and would still require internal resources to manage.

3. **Background:** The HR Department has had responsibility for the temporary employee services program since the early 1980s. HR's Temporary Employee Services (HRTES) section assists customer city departments with the acquisition of temporary employees and information technology staffing resources. HRTES performs all acquisition and ongoing contract administration tasks, which allows the city departments to focus on their project tasks and deadlines.

The city departments receive services through (13) existing temporary employee and information technology staffing contract agreements. Six of the agreements (46%) are MWDBE designated agencies. The contracts have an effective date of November 1, 2010 and will expire midnight October 31, 2014. The average annual spending is \$12,800,000 (4 years).

Also, (7) city departments represent 87% of the total temporary employee and information technology staffing services utilization: HHS 30%, PWE 28%; ITD 9%, ARA 6%, HPD 6%, SWD 5%, PRD 3%.

4. **Key Points:** Inherent in the request the following information is presented:

- A. As a revolving fund, temporary employees are charged to the requesting departments and must be within the City Council approved budget level for that department.
- B. The contract authority requested includes a contingency factor for catastrophic events, project and approved initiatives.

5. **RCA – Anticipated September 24, 2014:** In order to continue same and similar temporary employee services in city departments, HR is requesting City Council to approve the award of twelve (12) contracts (3 years plus 2 option years) to provide temporary employee and information technology staffing services to city departments and approve \$15,000,000 annual spending in contract authority to cover 3 year terms with 2 option years.

6. **Supplemental Information- Frequently Asked Questions:** (FAQ)

**Q: Where does this funding come from?**

**A:** From the budget approved by City Council for each department. Department must have the existing budget or transfer dollars from other line items. This is a facilitating program to augment department staffing needs.

**Q: What are the advantages for utilizing temporaries?**

**A:** In the temporary staffing arrangement, the agencies provide liability, fidelity, and workers' compensation insurance coverage. The agencies also maintain all necessary personnel and payroll records, including drug screens and background checks, if any. In addition, the arrangement provides an immediate resource for recruiting temporaries with the proper skill set and facilitates the temporary employee's termination as well.

**Q: What types of temporaries does the City use?**

**A:** There are 2 categories of services an agency may provide:

1. Regular Agency Personnel- Based on a city department's requirement, the agency recruits and places personnel at a specific mark up.
2. Payrolling- The department obtains the person and the agency performs all payroll functions at a specific mark up.

**Q: How many temporaries does the City have?**

**A:** At any given time, the City has anywhere from 300 to 500 temporaries. Please note this equates to 200-300 FTEs (Full Time Equivalents). However, in general, temporaries' assignments are for 90 days.

**Q: What is the overall average hourly rate?**

**A:** The city averages, including agency mark-up, for all type of classifications, \$20.04 an hour. This equates to an annual cost of \$41,683 compared to the City average annual salary of \$48,000.

**Q: What departments utilize temporaries for special projects / initiatives?**

**A:** Current departments/special projects that are utilizing temporary employees at this time are:

| Department | Project Name  |
|------------|---|
| HHS        | Immunization program                                      |
|            | Health Presentation/Community Awareness                   |
|            | HIV Reporting/Surveillance                                |
|            | MIPPA (Medicare Improvement for Patients & Providers Act) |
| HPD        | Records Mgmt. Systems (RMS)                               |
| ITD        | Radio Communications Project.                             |
| ARA        | BARC  |
| PWE        | Rebuild Houston   |
| HEC        | CO-Op Program   |
| HAS        | Hobby New Terminal  |
|            | Customs Bureau  |
| PRD        | Summer mowing   |

**Q: Is the City unique in the use of temporaries?**

**A:** No, according to the American Staffing Association, virtually all entities use temporaries. Local government agencies routinely issue RFPs for temporary services.

**Q: How many agencies does the City contract with and what has been their mark up over the last few years? Which departments account for the most obligation?**

**A:** Agency and Department Utilization Summary:



|  | <b>FY2015-2020</b>                | <b>FY2011-2014</b>      | <b>FY2011-2009</b>                     |
|--|-----------------------------------|-------------------------|--|
| <b>Agreements Recommended</b>                        | <b>12</b>                         | <b>14</b>               | <b>12</b>                              |
| Administrative/Industrial                            | 8                                 | 7                       | 7                                      |
| Information Technology                               | 4                                 | 7                       | 5                                      |
| <b>Agency mark-ups (Low-High) *</b>                  | <b>%s</b>                         | <b>%s</b>               | <b>%s</b>                              |
| Payrolling-Administrative                            | 14.70-28.32                       | 14.87-28.32             | 15.65-30.00                            |
| Payrolling-Industrial                                | 21.80-30.12                       | 16.29-34.25             | 19.55-39.15                            |
| Payrolling-Information Technology                    | 13.75-32.40                       | 13.87-21.90             | 15.65-22.40                            |
| Specialized-Administrative                           | 22.37-29.52                       | 22.37-27.00             | 23.50-37.15                            |
| Specialized-Industrial                               | 26.97-31.00                       | 22.79-37.12             | 23.50-44.15                            |
| Specialized-Information Technology                   | 18.37-35.30                       | 18.39-35.30             | 27.75-30.90                            |
| Contract-Administrative                              |                                   | NA                      | 21.92-59.32                            |
| <b>Noted Departments account for 86% Utilization</b> | HPD, HHS, PRD, SWD, PWE, ITD, ARA | HHS, HPD, ITD, SWD, PRD | HPD, HHS, PRD, SWD, PWE, HEC, HAS, ITD |

\* Markups include all taxes, and insurance required by federal, state or local laws.

**Q: How much funding is allocated to each awarded contract?**

**A:** Initially, no funds are allocated to the awarded contracts. Supplemental funds will be allocated to the awarded contracts based on service requests from city department and assignment placements.

MOTION by Council Member Costello that the following item be delayed for one week:

Item 43 - Ordinance approving and authorizing contracts between the City of Houston and A-1 Personnel of Houston, Inc, At Work Staffing, Inc, Executeam Staffing L.P., Icon Information Consultants, L.P., Lanestaffing, Inc, Silver & Associates Consulting, Inc, Smith & Dean, Inc d/b/a Dean's Professional Services, Topp Knotch Personnel, Inc, and Mshana Group LLC d/b/a Aries Pro for Temporary Employee Staffing Services and Information Technology Staffing Resources, providing a maximum contract amount – 3 Years with two one-year options - \$75,000,000.00

Seconded by Council Member Kubosh and carried.

Mayor Pro Tem Gonzalez, Council Members Stardig, Davis, Cohen, Boykins, Nguyen, Pennington, Gallegos, Laster, Green, Costello, Kubosh, Bradford and voting aye  
Nays none

Mayor Parker, Council Members Martin and Christie out of the City on City business

Council Member Robinson absent on City business

Mayor Pro Tem Gonzalez presiding

PASSED AND ADOPTED this 1st day of October 2014.

Pursuant to Article VI, Section 6 of the City Charter, the effective date of the foregoing motion is October 7, 2014.

City Secretary

**CITY OF HOUSTON - CITY COUNCIL**

Meeting Date: 10/7/2014

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Kubosh first

Agenda Item#: