

**AGENDA - COUNCIL MEETING - TUESDAY - FEBRUARY 15, 2011 - 1:30 P. M.**  
**COUNCIL CHAMBER - SECOND FLOOR - CITY HALL**  
**901 BAGBY - HOUSTON, TEXAS**

**PRAYER AND PLEDGE OF ALLEGIANCE** - Council Member Costello

**1:30 P. M. - ROLL CALL**

**ADOPT MINUTES OF PREVIOUS MEETING**

**2:00 P. M. - PUBLIC SPEAKERS** - Pursuant to City Council Rule 8, City Council will hear from members of the public; the names and subject matters of persons who had requested to speak at the time of posting of this Agenda are attached; the names and subject matters of persons who subsequently request to speak may be obtained in the City Secretary's Office

**5:00 P. M. - RECESS**

**RECONVENE**

**WEDNESDAY - FEBRUARY 16, 2011 - 9:00 A. M.**

DESCRIPTIONS OR CAPTIONS OF AGENDA ITEMS WILL BE READ BY THE  
CITY SECRETARY PRIOR TO COMMENCEMENT

**HEARING - 9:00 A.M.**

1. **HEARING** for **JUSTICE TRAX** to protest award to Porter Lee Corporation for Laboratory Information Management System for the Police Department

**MAYOR'S REPORT** - Collections

**CONSENT AGENDA NUMBERS 2 through 24**

**MISCELLANEOUS** - NUMBER 2

2. **RECOMMENDATION** from Fire Chief to approve the sale of Decommissioned Firefighting Bunker Gear to the Sister City of Guayaquil, Ecuador

**AGENDA - FEBRUARY 16, 2011 - PAGE 2**

**ACCEPT WORK** - NUMBERS 3 through 5

3. RECOMMENDATION from Director General Services Department for approval of final contract amount of \$392,745.00 and acceptance of work on contract with **ARC ABATEMENT, INC** for Asbestos Abatement at 1200 Travis Parking Garage - 4.90% over the original contract amount  
**DISTRICT I - RODRIGUEZ**
4. RECOMMENDATION from Director General Services Department for approval of final contract amount of \$137,167.60 and acceptance of work on contract with **AIA GENERAL CONTRACTORS, INC** for Fuel System Upgrade at Solid Waste Maintenance Facilities 2.42% over the original contract amount - **DISTRICTS A - STARDIG; C - CLUTTERBUCK and H - GONZALEZ**
5. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$825,418.25 and acceptance of work on contract with **CHIEF SOLUTIONS, INC** for Sanitary Sewer Cleaning and Television Inspection in Support of Rehabilitation - 1.49% over the original contract amount - **DISTRICTS A - STARDIG; B - JOHNSON; C - CLUTTERBUCK; D - ADAMS; F - HOANG; G - PENNINGTON; H - GONZALEZ and I - RODRIGUEZ**

**PROPERTY** - NUMBER 6

6. RECOMMENDATION from City Attorney to settle eminent domain proceeding styled City of Houston v. Hong C. Hoang and Luyen T. Nguyen, et al., Cause No. 946,541; for acquisition of Parcel AY8-115; for the **HOMESTEAD ROAD GRADE SEPARATION PROJECT (Ley Road - Firnat Street)** - **DISTRICT B - JOHNSON**

**PURCHASING AND TABULATION OF BIDS** - NUMBERS 7 through 9A

7. **ARAMARK CORRECTIONAL SERVICES, LLC** for Purchase of Jail Food Services for the Houston Police Department - \$166,000.00 - General Fund
8. **EAGLE COPTERS, LTD.** for a Refurbished Twin-Engine Helicopter for the Houston Police Department - \$8,236,301.00 - Grant Funds
9. ORDINANCE appropriating \$73,803.90 out of Water & Sewer System Consolidated Construction Fund for Emergency Replacement of a 16" Back Flow Valve and Water Line Repair for the Public Works & Engineering
  - a. **REYTEC CONSTRUCTION RESOURCES, INC** for Emergency Replacement of a 16" Back Flow Valve and Water Line Repair for the Department of Public Works & Engineering - Enterprise Fund

**ORDINANCES** - NUMBERS 10 through 24

10. ORDINANCE amending Ordinance Nos. 2008-385 and 2009-420, passed April 30, 2008 and May 13, 2009, respectively, which approved and authorized the submission of the 2008 and 2009 Consolidated Action Plans, including the Housing Opportunities for Persons With AIDS Grant Applications
11. ORDINANCE approving and authorizing agreement between the City of Houston and **IBN SINA FOUNDATION, INC** to provide a grant of \$1,200,000.00 in Community Development Block Grant Funds for partial funding of land acquisition and construction of a building to be located at 16345 South Post Oak Road which is to be used as a Community Health Clinic whose services will benefit low to moderate income families in the Southwest Houston Area - **DISTRICT D - ADAMS**

**ORDINANCES** - continued

12. ORDINANCE approving and authorizing submission of an application for grant assistance to the **U.S. JUSTICE DEPARTMENT, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS)**, for the FY2010 COPS Hiring Program for the Houston Police Department; declaring the City's eligibility for such grant; authorizing the Mayor to act as the City's representative in the application process; authorizing the Chief of the Houston Police Department to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program
13. ORDINANCE amending Ordinance No. 2009-1359 to increase the maximum contract amount for contract between the City and **RON SMITH & ASSOCIATES, INC** for Latent Print Support services - \$300,000.00 - General Fund
14. ORDINANCE amending Ordinance No. 2010-0223 (Passed by City Council on March 24, 2010) to increase the maximum contract amount; approving and authorizing first amendment to contract between the City of Houston and **BUSINESS ENTERPRISE MAPPING, INC** for Consulting Services to attain ISO 9001:2008 Certification for the Houston Police Department Emergency Communications and Property and Supply Divisions - \$35,900.00 - General Fund
15. ORDINANCE approving Tri-Party Development Agreement between **BUFFALO BAYOU PARTNERSHIP, HARRIS COUNTY FLOOD CONTROL DISTRICT** and the City of Houston concerning the Greenway on Buffalo Bayou Project - **DISTRICTS H - GONZALEZ and I - RODRIGUEZ**
16. ORDINANCE amending Ordinance Number 2010-768 to increase the maximum contract amount for contract between the City of Houston and **HARRIS COUNTY** relating to the Joint Elections held on November 2, 2010 - \$7,153.94 - General Fund
17. ORDINANCE appropriating \$175,000.00 out of Street & Bridge Consolidated Construction Fund and \$132,000.00 out of Water & Sewer System Consolidated Construction Fund and awarding contract to **SET ENVIRONMENTAL, INC** for Handling and Disposal of Hazardous Materials for Various Departments; establishing a maximum contract amount - 3 Years with two one-year options - \$2,194,454.19 - General, Enterprise and Revolving Funds
18. ORDINANCE appropriating \$75,000.00 out of General Improvement Consolidated Construction Fund, \$50,000.00 out of Public Health Consolidated Construction Fund, \$50,000.00 Public Library Consolidated Construction Fund, and \$105,000.00 out of Police Consolidated Construction Fund and amending Ordinance No. 2008-0374 (Passed April 30, 2008) to increase the maximum contract amount and approving first amendment to contract between the City of Houston and **BRAVE/ARCHITECTURE INC** for Architectural Services Task Order Contract for Various City Departments
19. ORDINANCE appropriating \$1,601,325.00 out of Parks Consolidated Construction Fund; awarding construction contract to **CARRERA CONSTRUCTION, INC** for Sagemont Park; setting a deadline for the proposer's execution of the contract and delivery of all bonds, insurance and other required contract documents to the City; holding the proposer in default if it fails to meet the deadlines; providing funding for engineering and materials testing services, air monitoring services, Civic Art Program and contingencies relating to construction of facilities financed by the Parks Consolidated Construction Fund and Texas Parks and Wildlife Department Fund \$1,000,000.00 - Grant Fund - **DISTRICT E - SULLIVAN**

**ORDINANCES** - continued

20. ORDINANCE appropriating \$230,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing Professional Engineering Services Contract between the City of Houston and **ENTECH CIVIL ENGINEERS, INC** for On-Call Citywide Rehabilitation and Replacement of Bridge Structures/Roadways; providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund
21. ORDINANCE appropriating \$1,592,300.00 out of Water & Sewer System Consolidated Construction Fund as an additional appropriation to the Professional Engineering Services Contract between the City of Houston and **CHIANG, PATEL & YERBY, INC** for On-Call Engineering for Water/Wastewater Utility Facilities Improvements (Approved by Ordinance Nos. 2007-0216 and 2008-0061)
22. ORDINANCE approving and authorizing contract between the City of Houston and **MEDORA ENVIRONMENTAL, INC dba SOLARBEE, INC** for Maintenance and Support Services for Public Works & Engineering Department; providing a maximum contract amount - 3 Years with two one-year options - \$331,540.00 - Enterprise Fund
23. ORDINANCE appropriating \$545,200.00 out of Water & Sewer System Consolidated Construction Fund, awarding contract to **RESICOM, INC** for Chemical Feed Station Repairs and Containment Walls at Dollywright, Garden Villas and Eddington Lift Stations; 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 testing, CIP Cost Recovery, and contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund - **DISTRICTS B - JOHNSON and I - RODRIGUEZ**
24. ORDINANCE No. 2011-102 passed first reading February 9, 2011  
ORDINANCE granting to **SOS LIQUID WASTE HAULERS, LTD, A Texas Limited Liability 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 - **SECOND READING**

**END OF CONSENT AGENDA**

**CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA**

**NON CONSENT AGENDA** - NUMBER 25

**MISCELLANEOUS**

25. **SET A HEARING DATE** relating to proposed amendments to Article VI, Chapter 9 of the Code of Ordinances, to amend land use regulations in the vicinity of George Bush Intercontinental Airport/Houston, William P. Hobby Airport and Ellington Airport - **DISTRICTS B - JOHNSON; E - SULLIVAN and I - RODRIGUEZ**  
**HEARING DATE - WEDNESDAY - MARCH 9, 2011 - 9:00 A.M.**

**MATTERS HELD** - NUMBERS 26 through 28

26. MOTION by Council Member Lovell/seconded by Council Member Gonzalez to adopt recommendation from Director Department of Public Works & Engineering for approval of final contract amount of \$17,086,999.40 and acceptance of work on contract with **REYTEC CONSTRUCTION RESOURCES, INC** for Storm Drainage Improvements in the Fonn Villas Subdivision - 4.99% over the original contract amount - **DISTRICT G - PENNINGTON**  
**TAGGED BY COUNCIL MEMBER PENNINGTON**  
This was Item 3 on Agenda of February 9, 2011
27. ORDINANCE approving and authorizing Lease Agreement by and between the City of Houston, Texas ("Lessor") and the **HONORABLE SHEILA JACKSON LEE**, as ("Lessee") for space in the Acres Homes Multi-Service Center located at 6719 W. Montgomery Road, Houston, Harris County, Texas - **DISTRICT B - JOHNSON** - **TAGGED BY COUNCIL MEMBER STARDIG**  
This was Item 16 on Agenda of February 9, 2011
28. ORDINANCE approving and authorizing contract between the City of Houston and **BICKERSTAFF HEATH DELGADO ACOSTA, LLP** for Legal Services relating to redistricting issues; providing a maximum contract amount - \$100,000.00 - General Fund  
**TAGGED BY COUNCIL MEMBERS ADAMS, JONES and NORIEGA**  
This was Item 17 on Agenda of February 9, 2011

**MATTERS TO BE PRESENTED BY COUNCIL MEMBERS** - Council Member Sullivan first

**ALL ORDINANCES ARE TO BE CONSIDERED ON AN EMERGENCY BASIS AND TO BE PASSED ON ONE READING UNLESS OTHERWISE NOTED, ARTICLE VII, SECTION 7, CITY CHARTER**

**NOTE** - WHENEVER ANY AGENDA ITEM, WHETHER OR NOT ON THE CONSENT AGENDA, IS NOT READY FOR COUNCIL ACTION AT THE TIME IT IS REACHED ON THE AGENDA, THAT ITEM SHALL BE PLACED AT THE END OF THE AGENDA FOR ACTION BY COUNCIL WHEN ALL OTHER AGENDA ITEMS HAVE BEEN CONSIDERED

CITY COUNCIL RESERVES THE RIGHT TO TAKE UP AGENDA ITEMS OUT OF THE ORDER IN WHICH THEY ARE POSTED IN THIS AGENDA. ALSO, AN ITEM THAT HAS BEEN TAGGED UNDER CITY COUNCIL RULE 4 (HOUSTON CITY CODE §2-2) OR DELAYED TO ANOTHER DAY MAY BE NEVERTHELESS CONSIDERED LATER AT THE SAME CITY COUNCIL MEETING

**NOTICE OF MEETING  
OF THE  
CITY COUNCIL OF THE CITY OF HOUSTON**

**NOTICE** is hereby given that a Regular Meeting of the City Council of the City of Houston will be held **TUESDAY, FEBRUARY 15, 2011 at 1:30 p.m. and WEDNESDAY, FEBRUARY 16, 2011 at 9:00 a.m.** with the reading of the descriptions, captions or titles of the agenda items by the City Secretary to begin not earlier than 60 minutes before the scheduled commencement, in the Council Chamber, Second Floor, City Hall, 901 Bagby, for the purpose of conducting the regular business and affairs of the City of Houston listed on the attached Agenda.

WITNESS my official signature this the 11th day of FEBRUARY, 2011.

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City Secretary

**CERTIFICATE**

I certify that the attached notice of meeting was posted on the Bulletin Board of the City Hall of the City of Houston, Texas, on FEBRUARY 11, 2011 at       :       p.m.

by \_\_\_\_\_

for Anna Russell  
City Secretary

**CITY COUNCIL CHAMBER - CITY HALL 2<sup>nd</sup> FLOOR - TUESDAY  
FEBRUARY 15, 2011 2:00PM**

**AGENDA**

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**NON-AGENDA**

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MR. CLIFFORD HILL – 924 Prosper – 77088 – 281-964-5388 – Public issues

MR. KEVIN ANTON – 6321 Mobud – 77074 – 713-515-0177 – Drivers driving wrong way on streets –  
Revenues for City of Houston

MR. MICHAEL KUBOSH – 1619 Lubbock – 77007 – 281-850-0172 – Red Light Cameras

MR. PAUL KUBOSH - 1619 Lubbock – 77007 – 281-850-0172 – Red Light Cameras

MS. MARY JORDAN – 4923 Eppes – 77021 – 832-724-6271 – Complaint about police officer

MR. NORMAN ADAMS – 427 W. 20th – 77018 – 713-869-8346 – Drainage fees

MR. ABRAHAM PADAU – 9303 Angeles Meadow Ln. – 77095 – 281-414-0374 – Synthetic marijuana

DR. KUSUM VYAS – 9307 Angeles Meadow Ln. – 77095 – 281-414-0374 – Synthetic marijuana

DR. YOGI VYAS – 9307 Angeles Meadow Ln. – 77095 – 281-414-0374 – Synthetic marijuana

MS. KIMBERLY BENNETT – 11319 Raven View Dr. – 77067 – 832-282-2557 – Building Codes

MR. SAM SCHAGRIN – 6205 Saxton – 77092 – 713-256-8869 – Water bill

**PREVIOUS**

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1MIN

1MIN

1MIN

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MR. ROLAND CURRY – 8707 Cowart – 77029 – 832-613-7301 - HPD violated Civil Rights

MR. ISIAKA OWOLABI – 7447 Neal Ridge – Missouri City – 77489 – 832-468-1283 – Fed up with Court  
and HPD

PRESIDENT JOSEPH CHARLES - Post Office Box 524373, Ste. 227 - 77052-4373 – 713-928-2871 –  
Assassination Conspiracy's, Privacy Act C/Corruptions W/Police Brutality – Hate Crime – ER Protection

MR. WILLIAM BEAL – 5814 Overdale – 77033 – no phone – Octavia's Caesar, Emperor of the  
Ancient Roman Empire

MS. PATRICIA MARTIN – 3401 Fannin – 77004 – 832-630-3717 – Texas Government abused Civil Rights.  
Congress Leaders Conspire Special Interest

MR. JOHN CIESLEWICZ – 1250 Dubarry Ln. - 77018 – 713-683-0703 – Drainage



**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**Hearing for JusticeTrax, Inc. to protest award to Porter Lee Corporation for Laboratory Information Management System for the Houston Police Department**

Category #

Page 1 of 1

Agenda Item # 1

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

City Attorney's Office

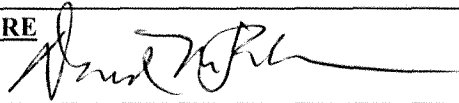
**Origination Date:**

February 11, 2011

**Agenda Date**

FEB 16 2011

**DIRECTOR'S SIGNATURE**



**Council District(s) affected:**

**For additional information contact:** Jo Wiginton, City Attorney's Office,  
**Phone:** 832-393-6435  
Calvin Wells, SPD, 832-393-8700  
Timothy Oettmeier, HPD

**Date and Identification of prior authorizing Council Action: June 30, 2009 (Ord. No. 2009-639)**

**RECOMMENDATION: (Summary)** Hearing for JusticeTrax, Inc. to protest award to Porter Lee Corporation for Laboratory Information Management System for the Houston Police Department.

**Amount of Funding:** None

**Finance Budget:**

**SOURCE OF FUNDING:**         **General Fund**                 **Grant Fund**                 **Enterprise Fund**  
 **Other (Specify)**

**SPECIFIC EXPLANATION:**

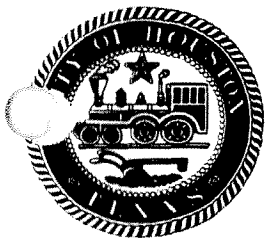
JusticeTrax, Inc. ("JusticeTrax") was the third ranked proposer for a contract awarded to Porter Lee Corporation for a Laboratory Information Management System for the Houston Police Department ("Contract"). The City awarded the Contract to Porter Lee Corporation in June of 2009. The Contract is funded by the U.S. Department of Justice Office of Community Oriented Policing Services ("DOJ") Tech Grant #2005CKWXO224, ORI#TXHPD00.

On December 16, 2009, JusticeTrax, Inc. filed with the DOJ a formal protest, alleging that the City violated federal regulations in awarding the Contract to Porter Lee. The City of Houston responded to the protest by letter dated February 14, 2010, apprising both the DOJ and JusticeTrax that the City had awarded the contract after a fair and open RFP competition and that JusticeTrax had failed to exhaust its administrative remedies by failing to appear before City Council. By letter dated December 2, 2010, the DOJ informed the City that it would not review JusticeTrax's protest because JusticeTrax had not presented its case before City Council. On December 10, 2010, JusticeTrax wrote to the City requesting at least 15 minutes to speak to City Council to present its protest.

Chapter 2, Article 1, Section 2-2 of the City's Code of Ordinances allows unsuccessful proposers to speak at City Council. Additionally, City Council, by state law and City Charter, is the only entity authorized to award a contract, reverse the award, rescind the contract, or grant any other remedy associated with the contract. Because the Contract is funded entirely by a grant that the federal government may withdraw if the City does not comply with the DOJ's grant requirements, JusticeTrax must be given the opportunity to be heard. It is recommended that City Council allow JusticeTrax this hearing to present its protest to City Council.

**REQUIRED AUTHORIZATION**

Finance Department:	Other Authorization:	Other Authorization:



# CITY OF HOUSTON

Legal Department

1  
FEB 16 2011  
Interoffice

Correspondence

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

**To:** Mayor and City Council

**From:**   
David Feldman  
City Attorney

**Date:** February 11, 2011

**Cc:** Stephen Sales  
Scott Heimberg

**Subject:** Summary of JusticeTrax Bid Protest

This hearing is necessary because JusticeTrax, Inc., an Arizona corporation, filed a complaint against the City of Houston with the United States Department of Justice ("DOJ"). The complaint concerns the Houston Police Department's selection of the Porter Lee Corporation as the best respondent to a Request for Proposals for a laboratory information management system for HPD's crime lab upgrade. The project is paid for out of a DOJ grant. Council awarded the contract to Porter Lee on June 30, 2009.

JusticeTrax was the third ranked proposer in the RFP process. It filed this protest with DOJ on December 16, 2009 – 136 days after the contract award. JusticeTrax alleges that the City did not require the successful proposer to comply with the terms of the RFP, that it did not notify JusticeTrax that it would not get the contract, and that the City had no procedure for protest by unsuccessful proposers. It asks the DOJ rescind the award, take back the grant funds, and award the contract to JusticeTrax.

The City responded that the selection process was fair and open. The RFP was publicly advertised; both written bids and oral presentations were evaluated; and the successful bidder was required to comply with the RFP terms. The agenda notice of the contract award was posted on the City's website, where JusticeTrax found the original RFP. The City has advised JusticeTrax at least three times, starting in December 2009, that its remedy is to appear before council to state its complaint.

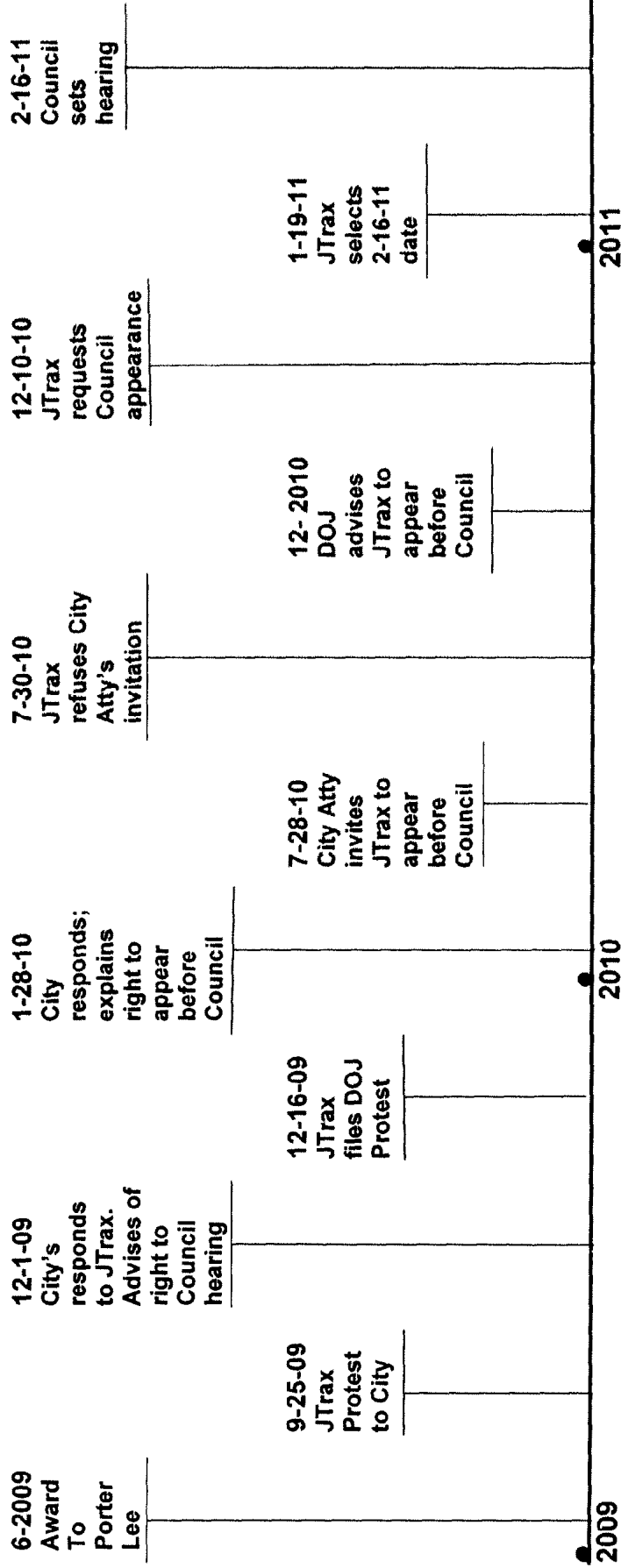
As of today, Porter Lee has completed 85 to 95% of the work on this contract, and the city has paid out \$529,418 of the total contract amount of \$ 825,390.

In December of 2010, the DOJ ruled that JusticeTrax should make its complaint to City Council in order to exhaust its administrative remedies. As a result, JusticeTrax has requested this time to appear before City Council to present its complaint as required by the DOJ. This hearing comes 555 days after the date of the contract award.

Attached to this summary are a timeline and a chronology of this case — from the advertising of the RFP to the setting of today's hearing and a notebook of correspondence between JusticeTrax and the City.

The purpose of this hearing is to permit Council to hear JusticeTrax's complaints and to ask any questions it may have to City staff from Purchasing and HPD about the process. At the conclusion of this hearing, Council may choose to (1) take no action, in which case the Porter Lee company will continue work to complete the contract; or (2) request the placement of an item on the next Council agenda to cancel the contract award to Porter Lee and refund the grant money to DOJ.

# JUSTICE TRAX TIMELINE



## CHRONOLOGY OF JUSTICE TRAX PROTEST

<b>DATE</b>	<b>DESCRIPTION</b>
5/16/08 523/08	HPD advertises for proposals to develop a computer system to manage information in the crime lab as part of its plan to bring the lab up to first class standards.
6/6/08	Proposals received.
7/2008	Evaluation committee ranks written proposals Porter Lee No. 1; Justice Trax No. 2
	Evaluation committee hears and ranks oral presentation Porter Lee No. 1; Justice Trax No. 3 Reasons for selection of Porter Lee – Contract negotiations begin
6/30/09	City Council awards contract to Porter Lee Award posted on Council Agenda on City's website Contract requires Porter Lee to configure LIMS to run on a SQL ("Sequel" as opposed to Oracle) platform
9/25/09	Justice Trax writes protest letter to City Attorney
11/20/09	City Attorney's bid committee investigates complaint and responds to Justice Trax's protest. Response includes statement that protester can make its complaint before City Council.
12/16/09	Justice Trax files protest with DOJ.
1/28/10	City's responds to DOJ complaint, reiterating right to appear before council.
7/28/10	City Attorney invites Justice Trax to appear before Council.
7/30/10	Justice Trax refuses invitation.
12/2/10	DOJ's letter advises Justice Trax that Council appearance necessary to exhaust administrative remedies.
12/10/10	Justice Trax requests Council appearance.
1/19/11	Justice Trax designates date for Council appearance.
2/16/11	Justice Trax protest set for Council hearing.

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**Hearing for JusticeTrax, Inc. to protest award to Porter Lee Corporation for  
Laboratory Information Management System for the Houston Police Department**

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<b>DATE</b>	<b>NUMBER</b>	<b>DESCRIPTION</b>
5/6/2008	1	City of Houston Request For Proposal
5/28/2008	2	City of Houston Letter of Clarification 1
5/30/2008	3	City of Houston Letter of Clarification 2
6/2/2008	4	City of Houston Letter of Clarification 3
7/10/2009	5	City of Houston Notice to Proceed
7/13/2009	6	City of Houston Notice of Awarding Contract to Porter Lee
09/18/2009	7	Emails among Jeffrey Baucher of JusticeTrax, Calvin Wells and Douglas Moore of the City of Houston
9/25/2009	8	Protest Letter from Stephen Sale to City Purchasing Agent Calvin Wells and City Attorney Arturo Michel
10/02/2009	9	Letter from Stephen Sale to Jo Wiginton Regarding Protest Procedures
10/07/2009	10	Letter from Stephen Sale to Jo Wiginton Regarding Further Materials
10/13/2009	11	Letter from Stephen Sale to Jo Wiginton Regarding Request for Protest Procedures and Providing Further Materials
10/20/2009	12	Letter from Stephen Sale to Jo Wiginton Regarding Final Submission and Summation
10/26/2009	13	Letter from Stephen Sale to Jo Wiginton Regarding Exhaustion of Remedies and Request For Decision
11/19/2009	14	Letter from Stephen Sale to Jo Wiginton Regarding Demand For Decision
11/20/2009	15	Email from Jo Wiginton to Stephen Sale Transmitting Draft Decision
12/1/2009	16	Bid Opinion No. B2009005
12/16/2009	17	Letter from Stephen Sale to U.S. Department of Justice Re Contract Award
2/1/2010	18	Letter from Stephen Sale to U.S. Department of Justice Re Exhaustion of Administrative Remedies
2/12/2010	19	Letter from Scott Heimberg with Akin Gump to U.S. Department of Justice Re Protest of JusticeTrax
3/12/2010	20	Letter from U.S. Department of Justice to Stephen Sale Re Request For Additional Information
4/23/2010	21	Letter from Stephen Sale to U.S. Department of Justice Re Exhaustion of Administrative Remedies
6/18/2010	22	Letter from City Attorney David Feldman to Martin U. Onwu with U.S. Department of Justice Re Exhaustion of Administrative Remedies

7/21/2010	23	Letter from Stephen Sale to U.S. Department of Justice Re City's 6/18/2010 Letter on Exhaustion of Administrative Remedies
7/28/2010	24	Letter from City Attorney David Feldman to Martin U. Onwu with U.S. Department of Justice Inviting JusticeTrax to Appear Before City Council
7/30/2010	25	Letter from Stephen Sale to U.S. Department of Justice Rejecting City's 7/28/2010 Offer to Appear Before City Council
12/2/2010	26	Letter from U.S. Department of Justice to Stephen Sale Re Exhaustion of Administrative Remedies
N/A	27	Strategic Purchasing Department HPD Laboratory Information Management System Timelines and Evaluation Worksheets

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**S37-T22904**

**CITY OF HOUSTON**

**ADMINISTRATION & REGULATORY AFFAIRS DEPARTMENT**

**STRATEGIC PURCHASING DIVISION**

**LABORATORY INFORMATION MANAGEMENT SYSTEM (LIMS)  
HOUSTON POLICE DEPARTMENT**

**NIGP CODE: 206-27**

**PROCUREMENT  
REQUEST FOR PROPOSAL**

**NOTICE OF  
REQUEST FOR PROPOSAL FOR  
LABORATORY INFORMATION MANAGEMENT SYSTEM (LIMS)**

**S37-T22904**

**THE CITY OF HOUSTON**

The City of Houston Administration & Regulatory Affairs Department invites prospective contractors to submit a written proposal for a Laboratory Information Management System (LIMS) for the City of Houston. Proposals are solicited for this service for the City of Houston in accordance with the terms, conditions and instructions as set forth in this Request for Proposal (RFP).

This Proposal is available on the Internet from: <http://purchasing.houstontx.gov/>


In the event you do not have download capability, the RFP document may be obtained from the Administration & Regulatory Affairs Department, Strategic Purchasing Division, Basement Level, Room B121A, City Hall, 901 Bagby, Houston, Texas 77002.

The City of Houston, Texas will receive proposals at the City Secretary's Office, City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002 until **Friday, June 6, 2008 at 2:00 P.M.** No proposals will be accepted after the stated deadline.

There will be a **Pre-Proposal Conference on Friday, May 23, 2008 at 10:00 A.M.** in the Strategic Purchasing Division, Conference Room No. 1, located at 900 Bagby, City Hall Annex, Tunnel Level, Houston, Texas.

Questions concerning the Proposal should be submitted to, Strategic Purchasing, High Technology, Room 506, City Hall, 901 Bagby, Houston, Texas 77002, Attn: Joyce Hays, phone: (832) 393-8723, fax: (713) 247-3039, [joyce.hays@cityofhouston.net](mailto:joyce.hays@cityofhouston.net) no later than **12:00 P.M., Wednesday, May 28, 2008.**

All proposals will be required to comply with City Council Ordinance No. 78-1538, passed August 9, 1978, relating to Equal Employment Opportunity Contract Compliance. The City reserves the right to reject any or all proposals or to accept any proposal or portion of a proposal deemed to be in the City's best interest.

  
Calvin D. Wells  
City Purchasing Agent

  
Date

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## SECTION I.

### GENERAL INSTRUCTIONS

#### 1.0 Submittal Procedure:

- 1.1 Seven (7) copies of the proposal, including one (1) printed original, containing a **CD-Rom**, signed in BLUE ink, are to be submitted in a sealed enveloped bearing the assigned Control Number located on the first page of the RFP document to:
  - 1.1.1 City Secretary's Office  
City Hall Annex  
900 Bagby  
Houston, Texas 77002
- 1.2 The deadline for the submittal of the proposal to the City Secretary's Office is no later than **Friday, June 6, 2008 at 2:00 P.M.** Failure to submit the require number of copies as stated above may be subject for disqualification form the proposal process.
- 1.3 Respondents may elect to either mail, or personally deliver, their proposals to the City Secretary's Office.
- 1.4 The City of Houston shall bear no responsibility for submitting responses on behalf of any Proposer. Respondents may submit their proposal to the City Secretary's Office any time prior to the above stated deadline.

#### 2.0 Proposal Format:

- 2.1 The Proposal should be electronically generated and the printed original signed in ink. They should not be submitted in elaborate or expensive binders. Legibility, clarity and completeness are important and essential.
- 2.2 The proposal must be signed by individual(s) legally authorized to bind the Proposer(s) and must contain a statement that the proposal and the prices contained therein shall remain firm for a period of one hundred-eighty (180) days.

#### 3.0 Pre-Proposal Conference:

- 3.1 A Pre-Proposal Conference will be held **Friday, May 23, 2008 at 10:00 A.M.** in the Strategic Purchasing Division Conference Room No. 1, City Hall Annex, located at 900 Bagby, Tunnel Level, Houston, Texas. Interested Proposers should plan to attend. It will be assumed that potential Proposers attending this meeting have reviewed the RFP in detail and are prepared to bring up any substantive questions, which have not already been addressed by the City.

#### **4.0 Additional Information and Specifications Changes:**

- 4.1 Requests for additional information and questions should be addressed to the Finance & Administration Department, High Technology Section, Joyce Hays, (832) 393-8723 fax: (713) 247-3039, [joyce.hays@cityofhouston.net](mailto:joyce.hays@cityofhouston.net) no later than **Wednesday, May 28, 2008 at 12:00 P.M.** local time. The City of Houston shall provide written response to all questions received in writing on or before the written question submittal deadline. Questions received from all respondents shall be answered and sent to all respondents who are listed as having obtained Request for Proposals. Proposers shall be notified in writing of any changes in the specifications contained in this Request for Proposal.

#### **5.0 Addenda & Modifications:**

- 5.1 All addenda, amendments, and interpretations to this solicitation shall be in writing. Any amendment or interpretation that is not in writing shall not legally bind the City of Houston. Only information supplied by the City of Houston in writing or in this RFP should be used in preparing proposal responses.
- 5.2 The City does not assume responsibility for the receipt of any addendum sent to Proposers.

#### **6.0 Examination of Documents and Requirements:**

- 6.1 Each Proposer shall carefully examine all RFP documents and thoroughly familiarize themselves with all requirements prior to submitting a proposal to ensure that the proposal meets the intent of this RFP.
- 6.2 Before submitting a proposal, each Proposer shall be responsible for making all investigations and examinations that are necessary to ascertain conditions and requirements affecting the requirements of this RFP. Failure to make such investigations and examinations shall not relieve the Proposer from obligation to comply, in every detail, with all provisions and requirements of the Request for Proposal.

#### **7.0 Post-Proposal Discussions with Proposers:**

- 7.1 It is the City's intent to commence final negotiation with the Proposer(s) deemed most advantageous to the City. The City reserves the right to conduct post-proposal discussions with any Proposer(s).

#### **8.0 Terms, Conditions, Limitations and Exceptions:**

- 8.1 This RFP does not commit the City of Houston to award a contract, issue a Purchase Order, or to pay any costs incurred in the preparation of a proposal in response to this request.
- 8.2 *The proposals will become part of the City's official files without any obligation on the City's part. All Responses shall be held confidential from all parties other than the City until after the contract is awarded. Afterward, the proposals shall be available to the public.*

- 8.3 The City of Houston shall not be held accountable if material from responses is obtained without the written consent of the Proposer by parties other than the City, at any time during the proposal evaluation process.
- 8.4 In the event a Proposer submits trade secret information to the City, the information must be clearly labeled as a "Trade Secret". The City will maintain the confidentiality of such trade secret to the extent provided by law.
- 8.5 Proposer(s) shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the City of Houston (including any and all members of proposal evaluation committees).
- 8.6 Proposer(s) shall not collude in any manner, or engage in any practices, with any other Proposer(s), which may restrict or eliminate competition or otherwise restrain trade. This is not intended to preclude subcontracts and joint ventures for the purposes of: a) responding to this RFP, or b) establishing a project team with the required experience and/or capability to provide the goods or services specified herein. Conversely, the City can combine or consolidate proposals, or portions thereof, for the purposes mentioned above.
- 8.7 All proposals submitted must be the original work product of the Proposer. The copying or paraphrasing of the work product of another Proposer is not permitted.
- 8.8 The RFP and the related responses of the selected Proposer will by reference (within either a Contract or Purchase Order) become part of any formal agreement between the selected Proposer and the City. The City and the selected Proposer may negotiate a contract or contracts for submission to City Council for consideration and approval. *In the event an agreement cannot be reached with the selected Proposer, the City reserves the right to select an alternative Proposer. The City reserves the right to negotiate with alternative Proposer the exact terms and conditions of the contract.*
- 8.9 Proposers, their authorized representatives, and their agents are responsible for obtaining, and will be deemed to have, full knowledge of the conditions, requirements, and specifications of the Request for Proposal at the time a proposal is submitted to the City.
- 8.10 *The price agreement(s) shall become effective on or about **October 10, 2008** for a term of two (2) calendar years.*
- 8.11 If necessary for the completion of tasks required under the project, the City will provide reasonable working space to the Prime Contractor.
- 8.12 Clerical support and reproduction of documentation costs shall be the responsibility of the Prime Contractor. If required, such support and costs shall be defined in the contract negotiated.
- 8.13 Prime Contractor personnel essential to the continuity and successful and timely completion of the project should be available for the duration of the project unless substitutions are approved in writing by the City Project Director.



- 8.14 The Prime Contractor will be expected to adhere to all standard contractual requirements of the City which will include, but are not limited to, provisions for: Time Extensions, Appropriation of Available Funds, Approvals, Term and Termination, Independent Contractor, Business Structure and Assignments, Subcontractors, Parties In Interest, Non-waiver, Applicable Laws, Notices, Use of Work Products, Equal Employment Opportunity, Force Majeure, and Inspections and Audits.
- 8.15 The City may terminate its performance under a contract in the event of a default by the Prime Contractor and a failure to cure such default after receiving notice of default from the City. Default may result from the Prime Contractor's failure to perform under the terms of the contract or from the Prime Contractor becoming insolvent, having a substantial portion of its assets assessed for the benefit of creditors, or having a receiver or trustee appointed.
- 8.16 Prime Contractor must promptly report to the City Project Director any conditions, transactions, situation, or circumstances encountered by the Prime Proposer, which would impede or impair the proper and timely performance of the contract.
- 8.17 *The City of Houston has sole discretion and reserves the right to cancel this RFP or to reject any or all proposals received prior to contract award.*
- 8.18 *The City reserves the right to waive any minor informality concerning this RFP, or to reject any or all proposals or any part thereof.*
- 8.19 *The City reserves the right to request clarification of any proposal after they have been received.*
- 8.20 The City reserves the right to select elements from different individual proposals and to combine and consolidate them in any way that best serves the City's interest. The City reserves the right to reduce the scope of the project and evaluate only the remaining elements from all proposals. The City reserves the right to reject specific elements contained in all proposals and to complete the evaluation process based only on the remaining items.
- 8.21 *The selected Proposer must furnish a "Certificate of Registration" which authorizes them to conduct business in the State of Texas prior to the awarding of the contract. Such Registration is obtained from the Texas Secretary of State's Office, which will also provide the certification thereof.*
- 8.22 After contract execution, the successful Proposer shall be the Prime Contractor and responsible party for contracting and communicating the work to be performed to subcontractors and for channeling other information between the City and subcontractors. Any subcontracting must be specified in the proposal. Any subcontracting not specified in the proposal will need prior written approval from the City Purchasing Agent.
- 8.23 Prime Contractor assumes total responsibility for the quality and quantity of all work performed, whether it is undertaken by the Prime Contractor or is subcontracted to another organization.

8.24 If subcontractor involvement is required in the use of license, patent, or proprietary process, the Prime Contractor is responsible for obtaining written authorization from the subcontractor to use the process or providing another process comparable to that which is required and which is acceptable to the City, all at no additional cost or liability to the City.

## 9.0 Invoicing:

9.1 The City of Houston is a single entity for accounting, billing, and discounting. Any invoices accompanied by detailed supplements and other back up documents are to be submitted to:

9.1.1 City of Houston  
Administration & Regulatory Affairs Department  
Accounts Payable Section  
P.O. Box 1562  
Houston, Texas 77251

9.2 The City of Houston requires timely and accurate accounting and billing information.

## 10.0 Indemnity and Release:

### 10.1 RELEASE

PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

### 10.2 INDEMNIFICATION

PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

10.2.1 PRIME CONTRACTOR/SUPPLIERS AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS

10.1-10.3, "PRIME CONTRACTOR/SUPPLIER") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

10.2.2 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER PRIME CONTRACTOR/SUPPLIER IS IMMUNE FROM LIABILITY OR NOT; AND

10.2.3 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER PRIME CONTRACTOR/SUPPLIER IS IMMUNE FROM LIABILITY OR NOT.

10.2.4 PRIME CONTRACTOR/SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. PRIME CONTRACTOR/SUPPLIER'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. PRIME CONTRACTOR/SUPPLIER SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

10.3 INDEMNIFICATION

10.3.1 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

**11.0 Indemnification Procedures:**

11.1 Notice of Claims. If the City or Prime Contractor/Supplier receives notice of any claim or circumstances which 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:

11.1.1 a description of the indemnification event in reasonable detail,

11.1.2 the basis on which indemnification may be due, and

11.1.3 the anticipated amount of the indemnified loss.

11.2 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 Prime Contractor/Supplier is prejudiced, suffers loss, or incurs expense because of the delay.

11.3 Defense of Claims

11.3.1 Assumption of Defense. Prime Contractor/Supplier may assume the defense of the claim at its own expense with counsel chosen by it that is

reasonably satisfactory to the City. Prime Contractor/Supplier shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Prime Contractor/Supplier must advise the City as to whether or not it will defend the claim. If Prime Contractor/Supplier does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

11.3.2 Continued Participation. If Prime Contractor/Supplier elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Prime Contractor/Supplier may settle the claim without the consent or agreement of the City, unless it (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 Contractor does not fund in full, (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.

## 12.0 Insurance Requirements:

The Contractor shall obtain and maintain in effect during the term of this agreement, insurance coverage as set forth below and shall furnish certificates of insurance showing the City as an additional insured, in duplicate form, prior to the beginning of the Contract. The City shall be named as an additional insured on all such policies except Professional Liability and Workers' Compensation, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under the agreement. **The issuer of any policy shall have a Certificate of Authority to transact insurance business in the State of Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition of Best's Key Rating Guide, Property-Casualty United States.**

12.1 Comprehensive General Liability including Contractual Liability and Automobile Liability insurance shall be in at least the following amounts:

12.1.1 Commercial General Liability Insurance including Contractual Liability:

12.1.1.1 \$500,000 per occurrence;

12.1.1.2 \$1,000,000 aggregate, (defense costs excluded from face value of the policy)

12.1.2 Workers' Compensation including Broad Form All States Endorsement:

12.1.2.1 Amount shall be statutory amount.

12.1.2.2 **Employer's Liability cannot be used as a substitute for Workers' Compensation**

12.1.3 Automobile Liability (See Note Below):

12.1.3.1 \$1,000,000 Combined Single Limit per occurrence

12.1.4 Employer's Liability

12.1.4.1 Bodily Injury by accident \$100,000 (each accident)

12.1.4.2 Bodily injury by disease \$100,000 (policy limit)

12.1.4.3 Bodily injury by disease \$100,000 (each employee)

12.1.5 Professional Liability

12.1.5.1 \$500,000 per occurrence \$1,000,000 aggregate

12.2 Automobile liability insurance for autos furnished or used in the course of performance of this Contract including Owned, Non-owned and Hired Auto coverage (Any Auto coverage may be substituted for Owned, Non-owned and Hired Auto coverage.) If no autos are owned by the Contractor, coverage may be limited to Non-owned and Hired Autos. If Owned Auto coverage cannot be purchased by Contractor, Scheduled Auto coverage may be substituted for Owned Auto coverage. EACH AUTO USED IN PERFORMANCE OF THIS CONTRACT MUST BE COVERED IN THE LIMITS SPECIFIED.

12.3 All of the insurance required to be carried by the Contractor hereunder shall be by policies which shall require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, and that it shall give thirty (30) days written notice to the City before they may be cancelled or materially changed. Within such thirty (30) day period Contractor covenants that it will provide other suitable policies in lieu of those about to be cancelled or materially changed so as to maintain in effect the coverage required under the provisions hereof. Failure or refusal of the Contractor to obtain and keep in force the above required insurance coverage shall authorize the City, at its option, to terminate this Contract at once.

12.4 If any part of the work is sublet, similar insurance shall be provided by or in behalf of the Subcontractor to cover their operations, and the Contractor shall furnish evidence of such insurance, satisfactory to the City. In the event a Subcontractor is unable to furnish insurance in the limits required under the Contract, the Contractor shall endorse the Subcontractor as an Additional Insured on his policies excluding Workers' Compensation and Employer's Liability.

12.4.1 (See Insurance Requirements Exhibit for a sample insurance certificate format).

12.4.2 **Only unaltered original insurance certificates endorsed by the underwriter are acceptable. Photocopies are unacceptable.**

12.5 Contractor shall maintain in effect certain insurance coverage, which is described as follows:

- 12.5.1 Form of Policies: The Director may approve the form of the insurance policies, but nothing the Director does or fails to do relieves Contractor from its duties to provide the required coverage under this Agreement. The Director's actions or in-actions do not waive the City's right under this Agreement.
- 12.5.2 Issuers of Policies: The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, Property-Casualty United States.
- 12.5.3 Insured Parties: Each policy, except those for Workers Compensation, Employer's Liability, and Professional Liability, must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.
- 12.5.4 Deductibles: Contractor shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.
- 12.5.5 Cancellation: Each policy must state that it may not be canceled, materially modified, or non-renewed unless the insurance company gives the Director 30 days' advance written notice. Contractor shall give written notice to the Director within five days of the date on which total claims by any party against Contractor reduce the aggregate amount of coverage below the amounts required by this Agreement. In the alternative, the policy may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.
- 12.5.6 Subrogation: Each policy must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.
- 12.5.7 Endorsement of Primary Insurance: Each policy, except Worker's Compensation and Professional Liability (if any), must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.
- 12.5.8 Liability for Premium: Contractor shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.
- 12.5.9 Subcontractors: Contractor shall require all subcontractors to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must be commensurate with the amount of the subcontract, but in no case less than \$500,000 per occurrence. Contractor shall provide copies of insurance certificates to the Director.
- 12.5.10 Proof of Insurance On the Effective Date and at any time during the

Term of this Agreement, Contractor shall furnish the Director with Certificates of Insurance, along with an Affidavit from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the Director, Contractor shall furnish the City with certified copies of Contractor's actual insurance policies.

12.5.10.1 Contractor shall continuously and without interruption, maintain in force the required insurance coverages specified in this Section. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may

12.5.10.2 Immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or

12.5.10.3 Purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

12.5.10.4 The City shall never waive or be stopped to assert its right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

12.5.11 Other Insurance: If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

### **13.0 Contractor Performance Language:**

13.1 Contractor should make citizen satisfaction a priority in providing services under this Contract. Contractor's employees should be trained to be customer-service oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees should be clean, courteous, efficient and neat in appearance at all times and committed to offering the highest degree of service to the public. If, in the Director's determination, the Contractor is not interacting in a positive and polite manner with citizens, the Contractor shall take all remedial steps to conform to the standards set by this Contract and is subject to termination for breach of contract.

### **14.0 Inspections and Audits:**

14.1 City representatives may have the right to perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least three (3) years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

### **15.0 Interpreting Specifications:**

15.1 *The specifications and product references contained herein are intended to be descriptive rather than restrictive. The City is soliciting proposals to provide a*

*complete product and service package, which meets its overall requirements. Specific equipment and system references may be included in this RFP for guidance, but they are not intended to preclude Proposers from recommending alternative solutions offering comparable or better performance or value to the City. Unless specifically stated otherwise with regard to a specific item of equipment, it should be assumed that the City requires all equipment proposed for this project to be supported by a manufacturer's warranty, which is equal to or better than the prevailing standard in the industry.*

- 15.2 Changes in the specifications, terms and conditions of this RFP will be made in writing by the City prior to the proposal due date. Results of informal meetings or discussions between a potential Proposer and a City of Houston official or employee may not be used as a basis for deviations from the requirements contained in this RFP.

**16.0 Local Minority/Women Businesses Enterprises Participation:**

- 16.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 11% of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.
- 16.2 Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration in Houston, Texas if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in **Exhibit I**. If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

**17.0 City Contractors' Pay or Play Program:**

- 17.1 The requirements and terms of the City of Houston Pay or Play Program, as set out in Executive Order 1-7, are incorporated into this agreement for all purposes. Contractor has reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this agreement. This provision requires certain contractors to offer to certain employees a minimal level of health benefits or to contribute a designated amount to be used to offset the costs of providing health care to uninsured people in the Houston/Harris County area. Failure to complete **Exhibit X "Pay or Play"** Acknowledgement Form may be just cause for rejection of your bid or proposal.

**18.0 City Contractor Ownership Disclosure Ordinance:**

- 18.1 City Council requires knowledge of the identities of the owners of entities seeking to contract with the City in order to review their indebtedness to the City prior to entering contracts. Therefore, all respondents to this RFP must comply with Houston Code of Ordinances Chapter 15, as amended (Sections 15-122 through



15-126) relating to the disclosure of owners of entities bidding on, proposing for or receiving City contracts.

- 18.2 Completion of Exhibit VI –“Affidavit of Ownership or Control” will satisfy this requirement. Failure to provide this information may be just cause for rejection of your bid or proposal.

**19.0 Contractor Debt:**

- 19.1 IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.

**20.0 City of Houston Fair Campaign Ordinance:**

- 20.1 The City of Houston Fair Campaign Ordinance makes it unlawful for a contractor to offer any contribution to a candidate for City elective office. For purposes of this ordinance a contract is defined as any contract for goods or services having a value in excess of \$30,000 or more, regardless of the way by which it was solicited or awarded. Exhibit V of this RFP describes the contract and documentation requirements relating to this ordinance.

**21.0 Drug Detection and Deterrence Procedures for Contractors:**

- 21.1 It is the policy of the City to achieve a drug-free workforce and to provide a workplace that is free from the use of illegal drugs and alcohol. It is also the policy of the City that the manufacture, distribution, dispensation, possession, sale or use of illegal drugs or alcohol by contractors while on City premises is prohibited. Accordingly, effective September 1, 1994, and pursuant to the Mayor's Executive Order 1-31, as a condition to the award of any contract for labor or services, a successful Proposer must certify to its compliance with this policy. EXHIBIT VII contains the standard language, which will be used in each contract for labor or services, as well as the Executive Order 1-31 disclosure and compliance forms (Attachments A, B and C). These forms must be completed and returned prior to award.

**22.0 Project Administration:**

- 22.1 Questions regarding the scope of the project, technical specifications, proposed applications, etc. may be addressed to the Project Manager at the pre-proposal conference.

**23.0 Schedule:**

- 23.1 Listed below are important dates and times by which actions related to this Request for Proposal (RFP) should be completed.

23.2	<b><u>EVENT</u></b>	<b><u>DATE</u></b>
	Date of issue of the RFP	Friday, May 16, 2008
	Pre-Proposal Conference	Friday, May 23, 2008
	Questions from Proposers due to City	Wednesday, May 28, 2008
	Proposals due from Proposers	Friday, June 6, 2008
	Notification of Intent to award ( <i>Estimated</i> )	Tuesday, Sept. 2, 2008
	Council Agenda Date (Tentative)	Wednesday, Sept. 24, 2008
	Contract start date ( <i>Estimated</i> )	Friday, October 10, 2008

## SECTION II

### SCOPE OF WORK

#### **1.0 Introduction**

- 1.1 The City of Houston is seeking proposals for installation of a modern, Commercial-off-the-Shelf (COTS) Laboratory Information Management System (LIMS) for the Houston Police Department, herein referred to as 'HPD'. The new LIMS will provide the functions necessary to identify, communicate, plan, schedule and execute the tasks necessary to manage a forensic examination workload and reporting process. The LIMS includes any and all software, hardware and services delivered as a whole or as component parts of the proposed LIMS.
- 1.2 HPD is currently installing a separate Evidence Management software package. The new LIMS shall interface with such a system, as well as the existing HPD Records Management System (OLO) and other application software identified in the RFP.
- 1.3 The RFP includes information about the HPD facilities and details specific requirements for responding to the RFP. Proposals shall address the immediate needs of HPD and the long-term goals of the organization as set forth in this document. The services and expertise needed for this project include installation, configuration, training, analytical instrument interfacing, and integration with other software components, data conversion support, deployment consulting and assistance. Ongoing maintenance and support, including product upgrade assistance is required, possibly with the commitment of a long-term service agreement.
- 1.4 **The proposal shall recommend all specific hardware and infrastructure requirements to support the LIMS, with the understanding that HPD will provide these items.**

#### **2.0 BACKGROUND**

- 2.1 The mission of HPD is to enhance the quality of life in the City of Houston by working cooperatively with the public and within the framework of the U.S. Constitution to enforce the laws, preserve the peace, reduce fear and provide for a safe environment. Houston, Texas is the nation's fourth largest city with an estimated population of just over two million people.
- 2.2 The Houston Police Department (HPD) Crime Laboratory (Crime Lab) Division and the Identification Division (ID) serve Houston, Texas, the fourth largest city in the US. The Crime Lab operates on the 10<sup>th</sup>, 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> floors and ID operates on the 10<sup>th</sup> and 25<sup>th</sup> floor of the HPD Headquarters Building in downtown Houston. Plans call for the laboratories to co-locate with the Property Room located approximately 1½ miles away.

- 2.3 EXHIBIT XI "Current Operations Overview" provides a graphical representation and description of the key laboratory tasks of the Crime Lab and ID as they currently exist.

### 3.0 DEFINITIONS

3.1	ADAMS	Authenticated Digital Asset Management System
3.2	AFIS	Automated Fingerprint Identification System
3.3	ASCII	American Standard Code for Information Interchange
3.4	ASCLD/ LAB	American Society of Crime Laboratory Directors Laboratory Accreditation Board
3.5	ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
3.6	AV	Audio / Video
3.7	CAR	Corrective Action Report
3.8	CD	Compact Disc
3.9	CER	HPD Crime Lab Central Evidence Receiving Section
3.10	CIO	Chief Information Officer
3.11	CJIS	Criminal Justice Information System
3.12	CoC	Chain of Custody
3.13	CODIS	Combined DNA Index System
3.14	COOC	Continuity of Operations
3.15	COTS	Commercial-off-the-Shelf
3.16	CPU	Central Processing Unit
3.17	CS	Controlled Substances
3.18	CSU	HPD Crime Scene Unit
3.19	CTO	Chief Technology Officer
3.20	DEA	Drug Enforcement Administration
3.21	DA	District Attorney
3.22	DB	Database
3.23	DMS	Document Management Services
3.24	DNA	Deoxyribose Nucleic Acid
3.25	DOB	Date of Birth
3.26	DPS	Texas Department of Public Safety
3.27	EDD	Electronic Data Deliverable
3.28	EMS	Evidence Management System
3.29	ERP	Enterprise Resource Planning System
3.30	ESDA	Electrostatic Detection Apparatus
3.31	FA	Firearms
3.32	FB	Forensic Biology
3.33	FIPS	Federal Information Processing Standards
3.34	FT-IR	Fourier Transform Infrared Spectroscopy
3.35	FTP	File Transfer Protocol
3.36	GC	Gas Chromatography / Mass Spectrometry
3.37	GIF	Graphics Interchange Format
3.38	GRC	HPD Crime Lab General Rifling Characteristics Database
3.39	HAS	Houston Airport System
3.40	HHS	Health and Human Services
3.41	HEC	Houston Emergency Center
3.42	HISD	Houston Independent School District
3.43	HPC	Handheld Personal Computer
3.44	HPD	Houston Police Department

3.45	HPL	Houston Public Library
3.46	HR	Human Resources
3.47	IAD	HPD Internal Affairs Division
3.48	IAI	International Association for Identification
3.49	IBIS	Integrated Ballistics Identification System
3.50	ICOC	Internal Chain of Custody
3.51	ID	HPD Identification Division
3.52	IIS	Internet Information Server
3.53	IS	HPD Information Services Command
3.54	IR	Infrared
3.55	IT	Information Technology
3.56	ITD	HPD Information Technology Division
3.57	JIMS	Harris County Justice Information Management System
3.58	JPEG	Joint Photographic Experts Group
3.59	JXML	Justice Extensible Markup Language
3.60	LDAP	Lightweight Directory Access Protocol
3.61	LIMS	Laboratory Information Management System
3.62	LL	Latent Laboratory
3.63	LP	Latent Prints
3.64	MCA	Municipal Courts Administration
3.65	MDL	Method Detection Limit
3.66	Metro	Houston Metropolitan Transit System
3.67	MS	Microsoft
3.68	MSDS	Material Safety Data Sheet
3.69	NFLIS	National Forensic Laboratory Information System
3.70	NIBIN	National Integrated Ballistics Information Network
3.71	NIEM	National Information Exchange Model
3.72	NIST	National Institute of Standards and Technology
3.73	ODBC	Open Data Base Connectivity
3.74	OLO	HPD On-Line Offense System
3.75	PCR	Polymerase Chain Reaction
3.76	PDF	Portable Document Format
3.77	PFGE	Pulse Field Gel Electrophoresis
3.78	PL	Photography Laboratory
3.79	PPE	Personal Protective Equipment
3.80	PT	Proficiency Test(ing)
3.81	QA	Quality Assurance
3.82	QBE	Query by Example
3.83	QC	Quality Control
3.84	QD	Questioned Documents
3.85	RFP	Request for Proposal
3.86	RMS	HPD Records/Reports Management System
3.87	SOP	Standard Operating Procedure
3.88	SQL	Structured Query Language
3.89	SS	Subpoena System
3.90	SSL	Secure Socket Layer
3.91	STR-DNA	Short Tandem Repeat DNA Analysis
3.92	TAT	Turn-Around-Time
3.93	TOY	HPD Crime Lab MS Access Database
3.94	TSD	HPD Technology Services Division
3.95	UCR	Uniform Crime Reporting System

3.96	UV	Ultraviolet
3.97	VPN	Virtual Private Network
3.98	WinET	HPD Property Room Windows Evidence Tracking System
3.99	XML	Extensible Markup Language

#### **4.0 STATEMENT OF WORK**

##### **4.1 Installation**

The proposal shall include a pre-installation owner checklist that covers hardware, software and staffing levels that the HPD must provide. The selected LIMS Proposer or its designated representative shall perform the initial installation of the LIMS including configuration, data conversion and customization tasks. Proposers shall provide, as part of their proposal, a path or sequence of events, including a timetable, for the completion of this effort. This discussion shall address the various worksheets, reporting formats, and other customized documentation required by the laboratory.

##### **4.2 Training**

The Proposer shall make recommendations for on-site training and/or propose facilities for HPD personnel to configure, use, and maintain the LIMS, based on the requirements stated in this document. Training shall be for approximately 130 personnel and shall include instruction for any 3rd-party software integrated with the LIMS, for configuration and for end-user purposes. Training shall be provided to System Administration users at the time of initial installation, and end-user training shall be provided at a time mutually agreed upon by the Proposer and HPD. System Administration training shall include system installation, configuration, user interface, instrument integration, data review, reporting, data backup, and maintenance. End-user training shall include all LIMS tasks and functions related to the user's job duties including uploading instrument results. The proposal shall include a detailed discussion of how LIMS training is to be addressed. The discussion shall include a list of course titles, course abstracts, a description of the target audience, and typical class lengths.

##### **4.3 System Documentation**

The Proposer shall provide electronic and printed documentation (system administration and user) for the delivered LIMS. The system administration documentation shall include a design specification detailing system functionality as well as the design of the central database, to include entity relationship diagrams and table definitions. The user documentation shall be in the form of a user manual that describes how to enter all information into the database. For each data entry field, the user manual shall identify permitted data types, ranges of values, and relationships with other data.

4.3.1 In addition to the design specification, the final implementation of the System shall include on-line access to a context-sensitive Help System that provides specific information about each screen in the application.

#### **4.4 System Administration**

The Proposer shall identify all tools and third-party software necessary for proper administration of the LIMS. These tools shall cover management and administration of the LIMS database, the user interface, and any auxiliary programs integrated into the LIMS. The LIMS Proposer shall identify all proprietary components of the proposed LIMS, particularly those components not included in escrow. HPD shall approve proprietary components prior to implementation in the LIMS solution.

4.4.1 Delivery of the LIMS shall include all scripting and source code for database creation and the LIMS application as well as any Proposer auxiliary programs integrated into the LIMS. This fully working copy of the delivered and current LIMS source code shall be placed in an escrow account (to be mutually agreed upon). The Proposer shall provide a list of recommended software necessary for full support of the LIMS not to be provided by the LIMS Proposer.

#### **4.5 Period of Performance**

Proposals shall include a detailed project schedule indicating the major tasks (including significant milestones).

#### **4.6 IT Requirements**

This section defines LIMS software, hardware, and related infrastructure resources necessary to support the current and future HPD enterprise.

4.6.1 The LIMS shall operate within the HPD Information Technology (IT) infrastructure standards managed by HPD Technology Services Division (TSD) and work cooperatively with many HPD information systems. This requirement extends beyond routine LIMS operation to include the LIMS' role in continuity of operations (COOP) for the HPD. To support COOP, the LIMS licensing shall allow HPD to move the Production LIMS application to different servers and periodically login and verify that it is functioning correctly.

4.6.2 A generic infrastructure diagram is shown as Figure 4 in **EXHIBIT XI – "Current Operations Overview"**. Some of the key concepts illustrated include the central HPD server facility and an off-site emergency operating facility that may be used to host components of the LIMS. The HPD server environment utilizes Novell GroupWise v6.5 for messaging, Novell Netware v6.5 operating system for file/print services, and Microsoft (MS) Server 2003 Standard and Enterprise operating systems for Internet Information Server (IIS), MS SQL Server 2005, and other specialized applications. HPD TSD is progressing to retire Novell components of the infrastructure domains applicable to LIMS operability over the next 2 to 3 years. Hosting requirements stated in this section reflect this goal.

**NOTE:** Where a software application/system version is specified in this document it is meant to state the current working version in the HPD IT

infrastructure. This typically includes the most current service release, available fixes, patches and updates for that version. The proposed LIMS shall not require HPD TSD to upgrade to a more recent version of the application, nor shall it prevent HPD TSD from upgrading said application to the currently available release.

#### 4.6.3 DATABASE PLATFORMS

The LIMS shall utilize MS SQL Server 2005. The LIMS shall use this database product for all LIMS managed information and configurations.

#### 4.6.4 SERVER SYSTEMS

The LIMS server(s) shall use the MS Windows Server 2003 operating system. HPD utilizes HP Servers with abuse DL385 operation with dual CPU system. The Proposer should specify a server system that meets the goals of the project utilizing HP servers.

#### 4.6.5 WEB SERVERS

The LIMS shall utilize the MS Windows Server 2003 operating system and compatible internet service applications. ActiveX, Java, or other components not commonly loaded and needed by the selected LIMS shall be provided by the LIMS Proposer.

#### 4.6.6 LIMS WORKSTATIONS

The LIMS shall support use of MS Office 2003 Professional and Adobe Acrobat 7.0 Professional or later.

4.6.6.1 The LIMS client component (if so required) shall run on the standard HPD administrative computers using the MS Windows XP operating system. The LIMS client shall support updates using MS Systems Management Server 2003, which will be performed by HPD TSD.

4.6.6.2 LIMS web components shall use MS Internet Explorer version 6.0 or later for all browser-based access.

4.6.6.3 LIMS Workstations shall be tested and certified to operate while actively running HPD Security and Networking components including but not limited to: Novell Client Version X.X, Novell Zenworks Application Manager, Cisco Security Agent, and McAfee EPO Anti-Virus applications.

4.6.6.4 The LIMS shall use TCP/IP addressing for communication between all LIMS components, workstations, and with external systems. The TCP/IP Addresses shall be dynamic and issued through existing DHCP Servers in HPD network attached equipment.



#### 4.6.7 NETWORK SERVICES

The LIMS shall be capable of interacting with Exchange Server and Novell/GroupWise or other SMTP based Messaging System as a means to deliver reports or notifications.

3.6.7.1 The LIMS shall use MS Windows network services to obtain access to network resources including directory services and printing.

#### 4.6.8 SECURITY

The delivered LIMS shall provide security to protect the integrity of LIMS data. The LIMS shall be in full compliance with all City of Houston, Texas State Government, and Federal regulations and standards pertaining to electronic transmission of suspect and complainant information. The LIMS shall be in full compliance with all HPD regulations and standards pertaining to electronic transmission of information at the time of implementation including Justice Extensible Markup Language (JXML – see US Department of Justice, Office of Justice Programs site [http://www.it.ojp.gov/topic.jsp?topic\\_id=43](http://www.it.ojp.gov/topic.jsp?topic_id=43) ) and the National Information Exchange Model (NIEM – see <http://www.niem.gov/> ).

4.6.8.1 The delivered LIMS shall provide security to protect the integrity of the system, its data stores, and the data stores of other HPD systems it may be granted access to.

##### 4.6.8.2 LIMS User Authentication

The LIMS shall utilize Lightweight Directory Access Protocol (LDAP) and/or Active Directory as a means to authenticate LIMS users on the HPD domains. The delivered LIMS shall be compatible with the HPD single sign-on methodology.

4.6.8.2.1 The LIMS shall perform user authentication independent of Active Directory for external users (primarily Harris County District Attorneys) who are not listed in the HPD Active Directory. For users not managed in Active Directory, the LIMS shall:

- Authenticate users utilizing, at the minimum, a unique user identifier and password.
- Allow HPD to set the requirements for user names and passwords.
- Allow passwords to contain a mixture of upper case letters, lower case letters, numbers and special characters.
- Allow the system administrator to configure a password expiration policy based on HPD policy.
- Allow the system administrator to designate the

frequency for user password renewal, the period of inactivity allowed before automatic logout, the number of failed log-in attempts before lockout, password history, and whether passwords can be reused.

#### 4.6.8.3 Central Database Security

The delivered LIMS shall provide configurable security for accessing the database. Any method of accessing the central database, whether through the LIMS application or external programs completing the solution, shall require user authentication. This administrator configurable security shall be capable of setting read-only, limited editing and full access to the database and be configurable as to types of access granted by roles to all objects within the database.

4.6.8.3.1 Extra security shall be provided for sensitive database records. The LIMS Proposer shall provide a means to flag or otherwise identify and protect any confidential data pertaining to capital murder, homicide and rape cases. Permissions to create, view, or edit sensitive records shall be assignable to specific users and roles.

4.6.8.3.1.1 The LIMS shall support the use of field, table and/or entire database encryption.

#### 4.6.8.4 LIMS Application Security

The delivered LIMS application shall provide the LIMS Administrators with configurable security settings for all users of the application, whether internal to HPD or external. Based upon the user's assigned roles and/or permissions, the application shall control which menus, screens, and functions within screens are available to that specific user.

4.6.8.4.1 The delivered LIMS should allow multiple login permission settings for specific users and roles (functionality that allows authorized users to login from multiple PCs at the same time).

#### 4.6.8.5 Internet Access Security

The LIMS shall be delivered fully capable and compatible with access via the Internet. Access via the Internet shall include appropriate security through firewall and virtual private network technology. The Proposer shall supply the

technical specifications for secure access to the LIMS via the Internet.

4.6.8.5.1 The Proposer shall make recommendations for all components for access to the internet.

#### **4.7 LIMS DATABASE CHANGES**

- 4.7.1 The LIMS shall permit authorized users the ability to add additional tables and additional columns or fields to Proposer-provided LIMS tables in the Proposer-provided schema without violating the maintenance agreement and allowing all Proposer-provided updates and patches to be applied during the entire HPD LIMS lifecycle. Tools used to configure Proposer-provided tables and user interfaces provided by the Proposer shall include the ability to expose new database objects created externally to existing and new user interface screens and to include stored procedures, views created in MS SQL and report objects/files created with Crystal Reports 9.0 or later.
- 4.7.2 Proposer's licensing agreement or support processes shall include provisions deemed appropriate to provide adequate notification/consultation prior to database schema edits, additions or deletions.

#### **4.8 EXISTING APPLICATIONS DATA MIGRATION**

- 4.8.1 The Proposer shall quote the effort necessary to migrate existing data specified in **Exhibit XII**. Therefore, proposals shall include a description and cost of the process that would be used to analyze existing data, develop appropriate migration processes and complete the migration of data from the existing HPD database applications. The Proposer shall describe HPD TSD participation, roles and responsibilities for the proposed process and include an optional proposal cost to support this activity.

#### **4.9 LIMS INSTRUMENT INTERFACES**

- 4.9.1 The LIMS shall exchange information with Laboratory instrumentation. The LIMS shall provide tools that allow authorized users to modify existing user/instrument/application interfaces, create new interfaces, and utilize existing interfaces to create new interfaces. The LIMS shall have the flexibility and capability for trained HPD users with appropriate permissions to modify and control existing interfaces and interface additional resources to the LIMS as the needs arise. If the interface software for a specific instrument does not allow full configuration of all communications parameters, then the Proposer shall provide an option to acquire access to the source code so that HPD can produce a modified version of the interface application.
- 4.9.2 Whenever possible, instruments shall be interfaced bi-directionally to the LIMS. The LIMS shall be configured to accept data from, and generate and deliver run-lists to, instrumentation as specified in **Exhibit XIII**.

- 4.9.3 Disruptions with an interfaced instrument shall not cause a LIMS failure and a LIMS failure shall not disrupt an interfaced instrument. Instrument interfaces shall include error handling and/or necessary storage to ensure data transfer is held for re-iteration in the event target tables are not available or records are locked.
- 4.9.4 HPD maintains some older instruments that must utilize legacy operating systems and they are so designated in Exhibit XIII. The Proposer shall provide interfaces and specify any system or instrument software upgrade requirements as may be necessary to communicate with these instruments. **The Proposer shall state which, if any, instruments cannot be interfaced to its LIMS.**

#### **4.10 ENTERPRISE APPLICATION INTEGRATION**

##### **Workstation Applications**

4.10.1 The LIMS licensing shall not prevent LIMS data interaction with, and shall not be limited to, the programs listed below:

- Microsoft Office
- Crystal Reports
- askSAM
- ADAMS (Authenticated Digital Asset Management System)
- Mideo Systems EZDoc Plus
- DataWorks Plus Digital Photo Manager
- Adobe Creative Suite

4.10.2 The LIMS shall be capable of supplying and/or receiving data utilizing ODBC and licensing shall not restrict such connections.

##### **On-Line Offense (OLO) System**

- 4.10.3 Three primary functions of OLO relative to laboratory operations are Investigation Case Management, Mapper/ID Management, and the HPD Personnel System. OLO is a COBOL-based system, which will be replaced by a Records Management System (RMS).
- 4.10.4 OLO's sub-system Mapper is used to create and track ID assignments for Latent Print (LP) processing and examinations. The LIMS forensic workload management functionality shall supply sufficient functionality to replace functions currently performed by Mapper.
- 4.10.5 OLO's Case Management functionality will remain operational until superseded by the RMS. The LIMS shall retrieve and deliver OLO supplement files utilizing Extensible Markup Language (XML) as specified by HPD TSD. Supplements serve as final reports and evidence tracking records in OLO. The LIMS shall maintain final reports generated by laboratory examinations in LIMS, then format and duplicate the results in

OLO as supplements when the final reports are approved. The LIMS shall maintain an auditable trail of all transactions whether successful or not with OLO.

- 4.10.6 OLO's HPD Personnel sub-system will remain operational until retired by RMS. The LIMS shall retrieve OLO personnel files utilizing XML as specified by HPD TSD and retain appropriate foreign references within LIMS transactions. HPD TSD may facilitate such referencing through an intermediary database, at its option.

#### **Evidence Management System (EMS)**

- 4.10.7 HPD plans to implement an EMS in the HPD Property Room. Operations of evidence collection, sub-evidence generation, distribution and legal chain of custody (CoC) tracking to disposition will be recorded in the MS SQL Server databases supporting the HPD's EMS. The LIMS shall utilize XML and/or shared data tables to facilitate all evidence transfers from/to EMS.

#### **Subpoena System (SS)**

- 4.10.8 HPD operates an intranet portal web system into which HPD Court Liaisons from Municipal Courts, County Courts, and District Courts manually enter subpoenas as they are issued by the respective courts. The Proposer shall provide options and separate pricing for providing capability to integrate the LIMS with the SS utilizing XML and/or shared data tables to support personnel task/work scheduling and workload reviews. The LIMS shall be capable of exporting its personnel scheduling data to Outlook while maintaining a master calendar in LIMS of laboratory staff activities.

### **4.11 SYSTEM CAPACITY**

- 4.11.1 The laboratory currently has approximately 110 users. The delivered LIMS shall support a minimum of thirty six (36) concurrent users. The Proposer shall include in the proposal all licensing options that will support the required number of users. The term "concurrent user" is defined, for purposes of the proposal and any ensuing contract, as HPD personnel actively accessing the LIMS application. It does not include electronic upload of analysis requests, instrument interfaces, persons accessing electronically delivered finished data, peripheral devices or web components accessed by laboratory customers or COOP requirements for pre-loaded software in a hot-standby status.

### **4.12 APPLICATION ENVIRONMENTS**

- 4.12.1 Licensing terms shall enable HPD to set-up additional instances of the LIMS for development, validation, testing, and training at no additional cost. In addition to setting up the Production Environment, the LIMS Proposer shall assist HPD in setting up the additional environments during implementation at a time to be determined by HPD. The LIMS Proposer shall recommend hardware and software requirements to effectively enable the additional environments. The Proposer shall provide

necessary tools and/or procedures for moving/promoting changes/upgrades, etc. from one environment to another such as from development through validation, testing, and training to production.

4.12.2 The LIMS shall enable HPD to limit access to the selected environments to authorized users and administrators. The LIMS shall display on the user's computer screen which environment (database) is being accessed.

#### **4.13 SYSTEM DATA BACKUP AND STORAGE**

4.13.1 The Proposer shall provide guidance for routinely backing up LIMS application software and database environments for off-site storage in accordance with HPD IT policies and procedures.

#### **4.14 LIMS MAINTENANCE**

4.14.1 HPD TSD shall be granted access and review authority of the Proposer's development and testing practices prior to Proposer selection for the purpose of ascertaining adherence to industry best practices in development and documentation, product stability, product supportability, product scalability and product performance/load testing. Such access will be obtained at HPD's expense and optionally exercised by documentation review or staff interviews either remotely or at the Proposer's site.

4.14.2 The proposal shall include and price separately, an option to provide a one/two-person 30/60/90-calendar day period of on-site support during the implementation to final section production (Go Live).

4.14.3 **The Proposer shall include one-year of maintenance in the cost proposal of the LIMS. The maintenance period for the implemented LIMS shall start when the first HPD section begins production (goes live).** The proposal shall include options for additional one-year periods of maintenance and shall reflect maintenance with upgrades pricing for ten (10) years. Each one-year period of maintenance should include free software upgrades.

##### **4.14.4 Maintenance Goals**

4.14.4.1 The Proposer shall indicate days and hours of availability for telephone support.

4.14.4.2 The proposal shall include various levels of maintenance including an option for on-site support within 24 hours of notification for the lifetime of the support contract. All support options shall provide upgrades, fixes, and patches at no additional charge to HPD during the period of support.

4.14.4.3 The Proposer may specify maintenance by remote access via VPN to all configured LIMS instances. Proposer personnel will be permitted access to LIMS instances while on-site and escorted by HPD personnel.

#### 4.14.5 Maintenance Methods

- 4.14.5.1 The Proposer shall provide information on user groups available for its product.
- 4.14.5.2 The proposal shall fully describe the various methods used by the Proposer to resolve reported problems.
- 4.14.5.3 The Proposer shall permit HPD-designated HPD LIMS Administrators access to the Proposer's support related resources.
  - 4.14.5.3.1 FTP: The Proposer shall provide communication/download functions via FTP protocol. The FTP site shall be available 24x7.
  - 4.14.5.3.2 VPN: The Proposer shall login to the LIMS using VPN capability provided by HPD. The selected Proposer shall complete the required application to receive VPN access for named Proposer users.

#### **4.15 HANDHELD PERSONNEL COMPUTERS (HPC)**

- 4.15.1 In addition to standard personal computers, the LIMS shall have the capability, with appropriate security, of electronic data upload/download from/to HPC devices, tablet PC, and data loggers. The delivered LIMS shall have the ability to download forms and other information to HPC devices and tablet PCs for recording information to be uploaded into the LIMS.

#### **5.0 FUNCTIONAL**

- 5.1 **EXHIBIT XV** specifies LIMS requirements to be met by the Proposer in terms of HPD functional and operational required processes.

## SECTION III

### PROPOSAL OUTLINE AND CONTENT

To simplify the review process and to obtain the maximum degree of comparability, the proposal must follow the outline as set forth below and, at a minimum, contain the information as requested. Proposers are encouraged to include additional relevant information.

#### 1.0 Title Page:

- 1.1 The title page should include the title of the RFP and number, the name and address of the Proposer, and the date of the proposal.

#### 2.0 Submittal Form:

- 2.1 PROPOSAL MUST BE SIGNED AND NOTORIZED BY AN AUTHORIZED REPRESENTATIVE(S) OF THE PROPOSER, WHICH MUST BE THE ACTUAL LEGAL ENTITY THAT WILL PERFORM THE CONTRACT IF AWARDED AND THE TOTAL FIXED PRICE CONTAINED THEREIN SHALL REMAIN FIRM FOR A PERIOD OF ONE-HUNDRED EIGHTY (180) DAYS.

#### 3.0 Letter of Transmittal:

- 3.1 A letter of transmittal shall include the following:
  - 3.1.1 The names, titles, addresses, and telephone numbers of the individuals who are authorized to make representations on behalf of the Proposer.
  - 3.1.2 A statement that the per unit proposed price and/or lump sum (if prices are proposed) is the total fixed price for the equipment and services enumerated.
  - 3.1.3 A statement that the person signing the letter of transmittal is authorized to legally bind the Proposer; that the proposal and the total fixed price contained therein shall remain firm for a period of one hundred-eighty (180) days and that the proposal will comply with the requirements and arrangements in Section I of this RFP.

#### 4.0 Expertise/Experience/Qualification Statement:

- 4.1 The Proposer shall provide a list in **Exhibit II** of all Systems installed during the last three years relevant to the requirements of this proposal. Include sufficient detail to demonstrate relevance, to include:
  - number of users
  - type of laboratory (e.g., forensic, environmental, public health, clinical)
  - start date
  - end date (or anticipated end date)
  - database and operating system used
  - number of sites involved with the project
  - technology utilized (e.g., web based, Citrix, thin client)



4.2 The Proposer shall also provide a list of corporate and technical reference contacts for all Systems implemented within the past three years *utilizing the same software version that is proposed for the HPD LIMS*. The reference shall include a synopsis of work provided to each referenced client and include costs, start and completion dates and shall identify the implementation personnel (if any) being proposed for the HPD task who participated in the reference task. The HPD Source Selection Team reserves the right to contact previous Proposer customers not specifically listed in their proposal.

4.2.1 In lieu of established corporate experience, the Proposer personnel resumes must include references for previous experience in implementing LIMS applications in a similar environment. Desired experience would include implementation in a forensic organization.

4.3 Provide resumes of key personnel whom will be responsible for the delivery of the services/project. HPD desires an implementation staff with functional experiences in laboratory operations similar to that of HPD and implementation experiences related to the same LIMS product as the LIMS being proposed.

4.4 The Proposer shall provide information concerning the size of its company, how long they have been in business, and a numerical breakdown of staff (by skill) especially detailed in the areas of development resources, implementation resources, and technical support for the same System being proposed for HPD. Technical support is defined as those resources available to assist HPD in a timely manner, should technical problems arise, and includes Help-Desk support and staff dedicated to developing product enhancements and upgrades. Additionally, the Proposer shall provide information concerning general annual revenues and other related financial data for the HPD selection teams' review.

4.5 The Proposer shall indicate each individual's percentage of time available to work on the HPD project from the time of contract award until the installed LIMS has been fully implemented.

## **5.0 Proposed Strategy & Operational Plan:**

5.1 Provide a detailed description and methodology of the proposed plan for the LIMS, which should include, but not be limited to the following:

5.1.1 A brief statement of the Proposer's understanding of the work to be done.

5.1.2 A detailed description that clearly defines the method of approach that will be utilized in the successful achievement of the RFP intended Scope of Work.

5.1.3 Specific information shall include:

- General release date for proposed product
- Earliest date proposed product was installed into a client production environment
- Number of installations for proposed product
- Number of patches released for proposed product

- Number of upgrades released for proposed product

5.1.4 Additionally, the Proposer shall describe the software quality methodology followed during development of the proposed product.

## 6.0 Responses to Technical Specifications

- 6.1 Section IV of the Statement of Work and **EXHIBIT XIV** identify requirements and constraints that apply to the entire HPD LIMS. The LIMS includes any and all software, hardware and services delivered as a whole or as component parts of the proposed LIMS. Submitted proposals shall discuss how the delivered LIMS will address the specific needs of HPD that are outlined in these documents, in addition to any other LIMS features that are proposed by the Proposer. Proposer omissions regarding features, performance, and/or functionality that are stated in this RFP as required and not otherwise addressed in submitted proposals will be considered the responsibility of the Proposer to provide.
- 6.2 Using the Requirements Matrix in **EXHIBIT XV**, the Proposer shall provide a response to the Requirements in **Section II, SCOPE OF WORK**, and **EXHIBIT XIV**. Instructions for completing the Requirements Matrix are as follows:
- 6.2.1 Column A: Requirement Number – Index number of requirement provided to facilitate identification of individual requirements.
- 6.2.2 Column B: Requirement – Description of specification.
- 6.2.3 Column C: RFP Section –Paragraph location within **Section II, Scope of Work** and **EXHIBIT XIV**.
- 6.2.4 Column D: Priority Code
- 6.2.4.1 Requirements in this column are classified as:
- MANDATORY (M)** - These requirements *must* be provided  
**HIGHLY DESIRABLE (HD)**- These requirements are important  
**DESIRABLE (D)** - These requirements are desirable
- 6.2.5 Column E: Response Codes:
- 6.3 All requirements and sub-requirements must be answered. Providing detail concerning how your product meets this requirement will enable the evaluation committee to best evaluate your product's capabilities. If the Proposer does not address the requirement, a "does not comply" response will be assumed for evaluation purposes.
- 6.4 If the function is fully provided as described in the RFP, and does not require customization to your existing product (as of the date of the proposal), respond "**YES**" in the *Provided* column.
- 6.5 If you believe that you substantially meet the requirement, or do so in a way that appears to be different than the RFP descriptive statement, answer "**YES/CLARIFY**", then explain the difference in the Comments block.

6.6 If you do not provide the function but propose to provide it in a future release, or deliver it as a customization/enhancement, answer, "**ALTERNATE**" and describe fully in the *Comments* block the scope of the customization/enhancement including all dependencies and a proposed release date. If you take exception to a requirement, state the exception, its reason, and propose an alternative solution.

6.7 Answer "**NO**" if you will not provide a requirement. A "**NO**" answer to a Mandatory Requirement may disqualify the Proposal.

6.7.1 Column F: Provide references to applicable sections of your response

6.7.2 Column G: Proposer's Comments

Note: **EXHIBIT XV** is only a summary list of requirements. The proposed system must meet all required technical specifications as defined in this RFP. Interpretation of the Proposer's fulfillment of the specific requirements of this RFP will be determined by the requirements set forth in this entire RFP and all associated requirements, not the Requirements Matrix.

6.8 Unless otherwise stated, all of the requirements in this RFP shall be delivered complete. Shall a functionality requirement identified in this RFP be proposed as "not to be provided complete", the Proposer shall so state in the "Comments" section of **EXHIBIT XV** for the requirement. The Proposer shall provide an estimate of the resources required for HPD to organically develop the functionality or to have the unsupported work contracted to another Proposer / integrator.

## **7.0 Project Management**

7.1 The proposal shall identify an individual who shall serve as the primary point of contact for the contract.

7.2 The Proposer shall describe its proposed project management approach, broken down by tasks and subtasks.

7.3 The Proposer shall include a schedule estimating the time necessary to complete the proposed scope of services.

7.4 The Proposer shall describe the commitment that HPD will need to make in terms of personnel.

7.5 The Proposer shall describe its Risk Management plan for identifying and mitigating risks.

7.6 The Proposer shall describe its Change Management plan for determining, documenting, evaluating and implementing requirements changes.

7.7 The Proposer shall describe its Scope Management process to assure successful completion of the project and to assure the project does not deviate from the original scope without an approval / agreement process involving various affected stakeholders.

7.8 The Proposer shall not change proposed project personnel for which a resume is submitted without notifying the HPD or its designated representative in writing

within 30 calendar days of the intended change. The HPD or its designated representative shall have the right to reasonable prior approval of any proposed project personnel changes.

## **8.0 Proposer Qualifications**

8.1 As described here and elsewhere in this **Section VI**:

8.1.1 The Proposer shall describe the Product to be installed at HPD.

8.1.2 The Proposer shall describe its proposed resources (personnel and hours) to support the installation.

8.1.3 The Proposer shall describe its experience in installation similar products in organizations similar to HPD.

8.1.4 The Proposer shall include corporate and technical references for all Systems implemented within the past three years utilizing the same software version that is proposed for the HPD LIMS.

8.1.5 The Proposer shall propose its Project Manager and implementation team and describe the roles of the proposed individuals. The Proposer shall include resumes for these individuals. If applicable, the Proposer shall identify sub contractors and describe their roles.

## **9.0 Pricing**

9.1 In a separate, sealed envelope, submit a fee/pricing proposal to perform the described work using the form in **EXHIBIT III**. This cost/pricing information will be used as a basis for negotiation with the successful Proposer.

9.2 The cost proposal shall address the issues mentioned in this document and clearly state the features that are to be included. Any deficiencies or alternative strategies for fulfilling the requirements of the LIMS outlined in this document shall be described by the Proposer. Unless stated to the contrary, it will be assumed that the features specified in the cost proposal are included and will be provided at no additional cost to HPD.

## **10.0 Maintainability**

10.1 Submittals shall include a discussion of any service contract options offered by the Proposer. The costs for a maintenance contract, as well as what is and is not provided, will be considered as part of the submittal evaluation process.

## **11.0 Cost of Improvements / Changes**

11.1 Improvements to the LIMS may be required at the outset or at sometime in the future. The Proposer shall include a cost per hour charge for these services, and a description of how each situation will be handled.

## **12.0 Warranties / Support / Guarantees**

12.1 Submittals shall include/describe any warranties or guarantees that are applicable to the offered products and services, which will be considered as part of the submittal evaluation process.

- 12.2 The Proposer shall define in the proposal the boundaries of the System Warranty. At a minimum, the System shall be warranted against deficiencies in functionality and defects in operation for a period of one year from the date of System acceptance by HPD.
- 12.3 The Proposer shall also include pricing for extending the warranty beyond one year in the form of a yearly maintenance agreement. In addition to System warranty, the Proposer shall include pricing for System upgrades in concert with upgrades by HPD to the server operating system, server database program, and client operating systems as well as any other standard components integrated into the System such as Microsoft Office programs. The Proposer shall include pricing for all available options for varying levels of technical support.
- 12.4 The Proposer shall define terms for on-site support and travel expenses.

### **13.0 Financial Statement:**

- 13.1 Submit your company's audited annual financial statements, in accordance with and as defined in the Financial Accounting Standards Board (FASB) regulation(s) for the past two years. In addition, include your and Dunn & Bradstreet Report or Federal Tax Forms Filed to the Internal Revenue Service (IRS) for the past two years.

### **14.0 Contents:**

- 14.1 The contents should be identified by section, description, and page number and should include, at a minimum, the following sections:
- 14.1.1 Title Page
  - 14.1.2 Signed and Notarized Submittal Form (Exhibit II)
  - 14.1.3 Letter of Transmittal
  - 14.1.4 Expertise/Experience/Reliability Statement
  - 14.1.5 Resumes & Certifications/Licenses of proposed key personnel.
  - 14.1.6 Proposed Strategy/Operational Plan
  - 14.1.7 Responses to Technical Specifications
  - 14.1.8 Project Management
  - 14.1.9 Proposer Qualifications
  - 14.1.10 Maintainability
  - 14.1.11 Cost of Improvements/ Changes
  - 14.1.12 Financial Statement and Dunn & Bradstreet Reports or Federal Tax Forms Filed for past two years.
  - 14.1.13 Signed M/WBE Forms: Attachment "A" Schedule of M/WBE Participation and Attachment "B" Letter of Intent (Exhibit I)
  - 14.1.14 List of Previous Customers and List of Proposed Subcontractors (Exhibit II)
  - 14.1.15 Pricing Form (Exhibit III)
  - 14.1.16 Fair Campaign Ordinance Form "A" (Exhibit V)
  - 14.1.17 Affidavit of Ownership or Control (Exhibit VI)
  - 14.1.18 Drug Compliance Agreement Attachment "A" and Contractor's Certification of No Safety Impact Positions Attachment "C" (Exhibit VII)
  - 14.1.19 Anti Collusion Statement (Exhibit VIII)
  - 14.1.20 Conflict of Interest Questionnaire (Exhibit IX – Download Form at <http://www.ethics.state.tx.us/forms/CIQ.pdf>)

- 14.1.21 City Contractors' Pay or Play Acknowledgement Form (Exhibit X)
- 14.1.22 Requested Information Outlined in the Scope of Work & Other Additional Relevant/Supporting Information or Alternate Proposals.

## SECTION IV

### EVALUATION AND SELECTION PROCESS

#### 1.0 Evaluation Summary:

- 1.1 An evaluation committee will develop a short list of Proposers based on Proposer scores obtained for Items 1-4 in the table in Section IX.B. These short-listed Proposers will be scheduled for a structured oral demonstration and interview.
- 1.2 The demonstration shall follow a script, which is attached as **EXHIBIT XV – “Vendor Demonstration Script”**. The demonstration script has been developed from the requirements presented in the RFP. Each Proposer’s demonstration evaluation will be based upon the viewing team’s interpretation of the capability of the proposed system in accomplishing the steps of the demonstration. The Proposer is expected to prepare thoroughly for the demonstration and should be prepared to demonstrate the proposed system as soon as one (1) week after proposals are due.
- 1.3 Such presentations will be at no cost to the City of Houston. At the end of the oral presentation and interview, the evaluation of the short-listed Proposers will be completed. The oral interview may be recorded and/or videotaped.

#### 2.0 Selection Process

- 2.1 The award of this contract(s) will be made to the Proposer(s) offering the response which best meets the needs of HPD. HPD may make investigations, as it deems necessary, to determine the capabilities of the Proposer to create, modify and implement the required application modules. The Proposer shall furnish to HPD such data as HPD may request for this purpose. HPD reserves the right to reject any offer if the evidence submitted by or the investigation of the Proposer fails to satisfy HPD that the Proposer is properly qualified to provide the services contemplated. Each Proposer will be evaluated on the basis of the following evaluation criteria:
  1. Submission of Required Documentation: Failure to submit required documentation may result in rejection of the proposal
  2. Objective Evaluation of the Offeror’s Proposal – Evaluation of Responses to the Requirements Matrix
  3. Subjective Evaluation of the Offeror’s Proposal
    - Project Implementation, Training and Test Plans
    - Project Plans and Implementation Approach
    - Training and Test Plan
  4. Vendor Qualifications
    - Corporate Experience, References, and Product Maturity
    - Key Personnel Qualifications, Experience and Availability
    - Financial Strength
  5. Evaluation of the Cost Proposals
  6. MWBE Capacity

**EXHIBIT I**

**GOAL ORIENTED MINORITY/WOMEN BUSINESS ENTERPRISES  
CONTRACT REQUIREMENTS**



**ATTACHMENT "A"**

**CITY OF HOUSTON  
SCHEDULE OF M/WBE PARTICIPATION**

**DATE OF REPORT:** \_\_\_\_\_

**BID No.:** \_\_\_\_\_

**FORMAL BID TITLE:** \_\_\_\_\_

NAME OF MINORITY/ WOMEN SUBCONTRACTOR	AFFIRMATIVE ACTION DIVISION CERTIFICATION No.	STREET ADDRESS AND CITY, STATE, ZIP CODE	TELEPHONE No.	SCOPE OF WORK	AGREE PRICE
TOTAL.....					\$ _____
M/WBE PARTICIPATION AMOUNT.....					\$ _____
TOTAL BID AMOUNT.....					\$ _____

**ATTACHMENT "A" (CONTINUED)**

IF YOU HAVE USED YOUR BEST EFFORTS TO CARRY OUT THE CITY'S M/WBE POLICY BY SEEKING SUBCONTRACTS AND SUPPLY AGREEMENTS WITH MINORITY AND WOMEN BUSINESS ENTERPRISES, YET FAILED TO MEET THE STATED PERCENTAGE GOAL OF THIS BID DOCUMENT, LIST BELOW YOUR GOOD FAITH EFFORTS FOR COMPLIANCE (DEFINITION OF REQUIREMENTS CAN BE OBTAINED THROUGH AFFIRMATIVE ACTION AT (713) 837-9000).


THE UNDERSIGNED WILL ENTER INTO A FORMAL AGREEMENT WITH THE MINORITY AND/OR WOMEN SUBCONTRACTORS AND SUPPLIERS LISTED IN THIS SCHEDULE CONDITIONED UPON AWARD OF A CONTRACT FROM THE CITY.

NOTE:

ALL FIRMS LISTED ABOVE MUST BE CERTIFIED (OR ELIGIBLE FOR CERTIFICATION) BY THE AFFIRMATIVE ACTION THIS SCHEDULE OF M/WBE PARTICIPATION SHOULD BE RETURNED, IN DUPLICATE, WITH THE BID FORM.

DIVISION.

BIDDER COMPANY NAME \_\_\_\_\_

SIGNATURE OF AUTHORIZED OFFICER OR AGENT OF BIDDER \_\_\_\_\_

NAME (TYPE OF PRINT) \_\_\_\_\_

TITLE \_\_\_\_\_

**ATTACHMENT "B"**

**LETTER OF INTENT**

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT.

TO: **City of Houston**  
**City Purchasing Agent**

**MINORITY/WOMEN BUSINESS ENTERPRISE (M/WBE) AND SUPPLIER**

**LETTER OF INTENT**

Contract Bid Number: \_\_\_\_\_

Bid Title: \_\_\_\_\_

Bid Amount: \_\_\_\_\_

M/WBE Participation Amount: \$ \_\_\_\_\_ **M/WBE GOAL** \_\_\_\_\_%

1. \_\_\_\_\_ agrees to perform work/supply goods and/or **Name of Minority/Women Business Enterprise** services in connection with the above-named contract and \_\_\_\_\_ as:

**Name of Prime Contractor**

- (a) \_\_\_\_\_ An Individual
- (b) \_\_\_\_\_ A Partnership
- (c) \_\_\_\_\_ A Corporation
- (d) \_\_\_\_\_ A Joint Venture

2. \_\_\_\_\_ status is confirmed by M/WBE Directory made **Name of Minority/Women Business Enterprise** available through the City of Houston Affirmative Action Division. Certificate No.: \_\_\_\_\_.

3. \_\_\_\_\_ and \_\_\_\_\_ **Name of Prime Contractor** **Minority/Women Business Enterprise** intend to work on the above-named contract in accordance with the M/WBE Participation Section of the City of Houston Contract Bid Provision.

The terms and conditions of Attachment "C" attached hereto are incorporated into this Letter of Intent for all purposes.

\_\_\_\_\_  
Signed-Prime Contractor

\_\_\_\_\_  
Signed-Minority/Women Business Enterprise

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## ATTACHMENT "C"

### CITY OF HOUSTON CERTIFIED M/WBE SUBCONTRACT TERMS

Contractor shall insure that all subcontracts with M/WBE subcontractors and suppliers are clearly labeled "THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT" and contain the following terms:

1. \_\_\_\_\_ (M/WBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Affirmative Action Director ("the Director")
2. \_\_\_\_\_ (M/WBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform 1) audits of the books and records of the subcontractor, and 2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.
3. Within five (5) business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.
4. As conclude by the parties to this subcontract, and as evidenced by their signatures hereto, any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 - "the Act"). Arbitration shall be conducted according to the following procedures:
  - a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.
  - b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Affirmative Action Division.
  - c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.
  - d. In the event the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

These provisions apply to goal oriented contracts. A goal oriented contract means any contract for the supply of goods or non-personal or non-professional services in excess of \$100,000.00 for which competitive bids are required by law; not within the scope of the MBE/WBE program of the United States Environmental Protection Agency on the United States Department of Transportation; and ;, which the City Purchasing Agent has determined to have significant M/WBE subcontracting potential in fields which there are an adequate number on known MBEs and/or WBE's to compete for City contract.

The M/WBE policy of the City of Houston will discussed during the pre-bid. For information assistance, and/or to receive a copy of the City's Affirmative action policy and/or ordinance contact the Affirmative Action Division at (713) 837-9000, 611 Walker, 20<sup>th</sup> Floor, Houston, Texas.

**ATTACHMENT "D"**

**CITY OF HOUSTON**  
**Affirmative Action and Contract Compliance**  
**M/WBE Utilization Report**

Report Period \_\_\_\_\_

PROJECT NAME & NUMBER: \_\_\_\_\_

PRIME CONTRACTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

LIAISON/PHONE No.: \_\_\_\_\_

AWARD DATE: \_\_\_\_\_

CONTRACT No.: \_\_\_\_\_

CONTRACT AMOUNT: \_\_\_\_\_

M/WBE GOAL: \_\_\_\_\_

M/WBE SUB/VENDOR NAME	DATE OF AA CERTIFICATION	DATE OF SUBCONTRACT	SUBCONTRACT AMOUNT	% OF TOTAL CONTRACT	AMOUNT PAID TO DATE	% OF CONTRACT TO DATE

Use additional pages if needed. Submit by the 15th day of the following month.  
 Provide support documentation on all revenues paid to end of the report period to:  
 M/WBEs to reflect up/down variances on contract amount

Affirmative Action Division  
 ATTN: Velma Laws 713-837-9018  
 611 Walker, 20<sup>th</sup> Floor  
 Houston, Texas 77002

**EXHIBIT II**

**LIST OF PREVIOUS CUSTOMERS/LIST OF  
SUBCONTRACTORS/SUBMITTAL FORMS**

**LIST OF PREVIOUS CUSTOMERS:**

1. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
System Description: \_\_\_\_\_  
\_\_\_\_\_

2. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
System Description: \_\_\_\_\_  
\_\_\_\_\_

3. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
System Description: \_\_\_\_\_  
\_\_\_\_\_

4. Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Award Date: \_\_\_\_\_ Contract Completion Date: \_\_\_\_\_  
Contract Name/Title: \_\_\_\_\_  
System Description: \_\_\_\_\_  
\_\_\_\_\_





**SUBMITTAL FORM**

NOTE: PROPOSAL MUST BE SIGNED AND NOTORIZED BY AN AUTHORIZED REPRESENTATIVE(S) OF THE PROPOSER, WHICH MUST BE THE ACTUAL LEGAL ENTITY THAT WILL PERFORM THE CONTRACT IF AWARDED AND THE TOTAL FIXED PRICE CONTAINED THEREIN SHALL REMAIN FIRM FOR A PERIOD OF ONE-HUNDRED EIGHTY (180) DAYS.

"THE RESPONDENT WARRANTS THAT NO PERSON OR SELLING AGENCY HAS BEEN EMPLOYED OR RETAINED TO SOLICIT OR SECURE THIS CONTRACT UPON AN AGREEMENT OR UNDERSTANDING FOR A COMMISSION, PERCENTAGE, BROKERAGE, OR CONTINGENT FEE, EXCEPTING BONA FIDE EMPLOYEES. FOR BREACH OR VIOLATION OF THIS WARRANTY, THE CITY SHALL HAVE THE RIGHT TO ANNUL THIS AGREEMENT WITHOUT LIABILITY OR, AT ITS DISCRETION, TO DEDUCT FROM THE CONTRACT PRICES OR CONSIDERATION, OR OTHERWISE RECOVER THE FULL AMOUNT OF SUCH COMMISSION, PERCENTAGE, BROKERAGE OR CONTINGENT FEE."

Respectfully Submitted:

\_\_\_\_\_  
(print or type name of Contractor – full company name)

By: \_\_\_\_\_  
(signature of authorized officer or agent)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address of Contractor: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. of Contractor: (\_\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_  
(signature, name and title of Affiant)

\_\_\_\_\_  
Notary Public in and for

\_\_\_\_\_ County, Texas

My Commission Expires: \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

## EXHIBIT III

**PRICING FORM**

**COMPANY NAME:**

<i><b>ITEM</b></i>	<i><b>PRICE</b></i>	
<b>1.0 SOFTWARE</b>		
<b>1.1 Base LIMS Application Software for Site License with up to 36 Concurrent Users</b>	\$	
<b>Yearly Maintenance &amp; Support Costs</b> <i>Support Program shall be described on separate attachment.</i>	\$ Not included in total cost	
<b>Cost Per Additional Concurrent User</b>	\$ Not included in total cost	
<b>Please provide different licensing options &amp; costs here for HPD's consideration. i.e.,</b>		
Site License	\$ Not included in total cost	
Per "Seat" or Per User License	\$ Not included in total cost	
Per Server License	\$ Not included in total cost	
Etc.	\$ Not included in total cost	
<b>1.2 Additional Modules Not Included Above (i.e., Control Charting, Standards Tracking, Remote Log-in, Accounts Receivable, Report Writer, Bar Coding, etc.) LIST ALL IF NOT INCLUDED IN #1 ABOVE AND INDICATE IF CUSTOMIZATION IS REQUIRED.</b>	<b>Is Customization Required?</b>	<b>PRICE</b>
Module 1.		\$
Module 2.		\$
Module 3.		\$
Module 4.		\$
Module 5.		\$
Module 6.		\$
Module 7.		\$
Module 8.		\$
Module 9.		\$
Module 10.		\$
Module 11.		\$
<b>1.3 LIMS Customization Costs For All Not Covered in 1.0 &amp; 1.1 Above</b>	\$	
<b>1.4 Other Required / Recommended Software</b>	\$	
<b>2.0 Implementation Services</b>		

<b>2.1 Instrument Interfaces (ref EXHIBIT XII)</b>	
<b>2.2 Cost per Instrument for Additional Interfaces</b>	\$ Not included in total cost
<b>2.3 System Integration (see EXHIBIT XI)</b>	
2.3.1	\$
2.3.2	\$
2.3.3	\$
2.3.4	\$
2.3.5	\$
2.3.6	\$
2.3.7	\$
2.3.8	\$
2.3.9	\$
2.3.10	\$ Not included in total cost
<b>2.4 Report Development (15 Reports)</b>	\$
2.4.1 Cost for Each Additional Report	\$ Not included in total cost
<b>2.5 Estimated (Not to Exceed) Cost for Data</b>	\$ Not included in total cost

<b>Migration</b>	
<b>3.0 Training</b>	
<b>3.1 Recommended Functional User Training</b>	\$
<b>3.2 Recommended System Administrator Training</b>	\$
<b>4.0 Documentation</b>	
<b>4.1 User Manual (Functional)</b>	\$
<b>4.2 User Manual (System Administrator)</b>	\$
<b>4.3 Source Code (To Be Placed in Escrow)</b>	\$
<b>TOTAL FIXED PRICE COST</b>	<b>\$</b>

**Total Fixed Price Costs in written form (Alpha)**

\_\_\_\_\_  
(Print Costs)

NAME: \_\_\_\_\_  
(PRINT)

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

COMPANY: \_\_\_\_\_  
(PRINT NAME)

DATE: \_\_\_\_\_

# EXHIBIT IV

## City of Houston Insurance Requirements for Contracts

To comply with the terms and conditions for insurance in a City of Houston Service Contract, the Contractor's Insurance Certificate must be prepared as follows and shall meet the requirements set forth on page 12 hereof and in Section C hereof:

- A. The City of Houston must be listed as an **additional insured** on the face of the Certificate, except those for Worker's Compensation and Employer's Liability.
- B. Each Policy must contain an endorsement to the effect that the **issuer waives any claim or right in the nature of subrogation** to recover against the City, its officers, agents or employees.
- C. The City of Houston must be included in the Insurer's Notification Requirement, which may be accomplished in one of the following ways:
  - 1. By the Contractor's Insurance Agent revising the standard cancellation clause to read substantially as follows (all handwritten strike-outs, additions, and changes to the original text, must all be initialed by the Insurance Agent authorized to make such changes): -

===== C A N C E L L A T I O N =====

J. D.

NON-RENEWED

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION

J. D.

DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE OF SUCH CHANGE TO THE CERTIFICATE HOLDER NAMED (TO THE LEFT), BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND~~

J. D.

~~UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

=====

AUTHORIZED REPRESENTATIVE OF INSURER

John Doe

=====

- O R -

- 2. By Attaching Endorsements in the form attached.
- D. Contractor shall require all subcontractors to carry insurance naming the City as an additional insured and meeting the all of the above requirements except as to amount. The amount shall be commensurate with the amount of the subcontract, but not in no case shall it be less than \$500,000 per occurrence.

Revised - 03/09/95

## CERTIFICATE OF INSURANCE EXPLANATIONS

1. Certificate must not be more than 90 days old.
2. Name and Address of Producer writing coverage.
3. Name of each insurance company providing coverage (as listed in Best's Key Rating Guide or on company's Certificate of Authority on file with Texas Department of Insurance). Each company must have (1) a Certificate of Authority to transact insurance business in Texas or (2) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of B+ or better and a Best's financial size category of class VI or better according to the most current edition Best's Key Rating Guide.
4. Name and address of Insured (as shown on policy)
5. Letter in the column must reference the insurer of the policy being described
6. Must be a policy number; no binders will be accepted
7. Date policy became effective
8. Expiration date must be at least **60** days from date of delivery of certificate
9. Name and file number of project
10. Name of project manager
11. Signature or facsimile signature of authorized representative of Producer (blue ink preferred)
12. All required endorsements must accompany the certificate.

# SAMPLE FOR AWARD OVER \$50,000.00

## ACORD. CERTIFICATE OF INSURANCE Issue Date (MM/DD/YY)

PRODUCER

ISSUERS OF POLICIES. THE ISSUER SHALL HAVE A RATING OF AT LEAST B + AND FINANCIAL SIZE OF CLASS VI OR BETTER ACCORDING TO THE CURRENT YEAR'S BEST RATING.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

SAMPLE FORM

**COMPANIES AFFORDING COVERAGE**

- .....
- COMPANY A
- .....
- COMPANY B
- .....
- COMPANY C
- .....
- COMPANY D
- .....
- COMPANY E

**COVERAGE'S**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR.	TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION (MM/DD/YY)	POLICY LIMITS
A.	<b>General Liability</b> (X) Commercial General Liability Claims Made (X) Occur. Owners & Contractors Prot.				General Aggregate \$1,000,000 Products-Comp/Op Agg. \$1,000,000 Personal & Adv. Injury \$1,000,000 Each Occurrence \$ 500,000 Fire Damage (Any one fire) \$ 50,000 Med. Expense \$ 5,000 (Any one person)
A.	<b>Automobile Liability</b> (X) Any Auto (X) All Owned Autos { Scheduled Autos { Hired Autos { Non-Owned Autos { Garage Liability	Auto Liability Insurance for autos furnished or used in the course of performance of this Contract. Including Owned, Non-owned, and Hired Auto coverage. (Any Auto coverage may be substituted for Owned, Non-owned and Hired Auto Coverage.) If no autos are owned by Contractor, coverage may be limited to Non-owned and Hired Autos. If Owned Auto coverage cannot be purchased by Contractor, Scheduled Auto coverage may be substituted for Owned Auto coverage. EACH AUTO USED IN PERFORMANCE OF THIS CONTRACT SHALL BE COVERED IN THE LIMITS SPECIFIED.			Combined Single Limit \$1,000,000 Bodily Injury (Per person) \$ Bodily Injury (Per Accident) \$ Property Damage \$
	<b>Excess Liability</b>				Each Occurrence \$ Aggregate \$
	<b>Worker's Compensation and Employee Liability</b>	Statutory Limits		(X)	<b>Statutory Limits</b> Each Accident \$ 100,000 Disease - Policy Limit \$ 100,000 Disease - Each Employee \$ 100,000
	<b>Other</b>				

**DESCRIPTION OF OPERATION/LOCATIONS/VEHICLES/SPECIAL ITEMS**

City of Houston is named as additional Insured on Auto and General Liability policies, and Waiver of Subrogation on Auto, General Liability, and Worker's Compensation.  
For (Project Name)

**CERTIFICATE HOLDER**

SHALL BE MODIFIED AS FOLLOWS: CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED NON-RENEWED BEFORE THE EXPIRATION DATE THERE OF THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. CITY OF HOUSTON / FINANCE AND ADMINISTRATION

DEPARTMENT - PROCUREMENT SERVICES DIVISION

P.O. BOX 1562  
HOUSTON, TEXAS 77251

AUTHORIZED REPRESENTATIVE

## EXHIBIT V

### CITY OF HOUSTON FAIR CAMPAIGN ORDINANCE

The City of Houston Fair Campaign Ordinance makes it unlawful for a Contractor to offer any contribution to a candidate for City elective office (including elected officers and officers-elect). All respondents to this invitation to bid must comply with Houston Code of Ordinances Chapter 18 as amended relating to the contribution and solicitation of funds for election campaigns. Provisions of this ordinance are provided in part in the paragraphs that follow. Complete copies may be obtained from the office of the City Secretary.

Candidates for city office may neither solicit nor receive contributions except during a period commencing 270 calendar days prior to an election date for which a person is a candidate for such office and ending 90 calendar days after the election date, including run off elections if such candidate is on the ballot.

Further, it shall be unlawful either for any person who submits a bid or proposal to contribute or offer any contribution to a candidate or for any candidate to solicit or accept any contribution from such person for a period commencing at the time of posting of the City Council Meeting Agenda including an item for the award of the Contract and ending upon the 30th day after the award of the Contract by City Council.

For the purposes of this Ordinance, a **Contract** is defined as each Contract having a value in excess of \$30,000 that is let by the City for professional services, personal services, or other goods or services of any other nature whether the Contract is awarded on a negotiated basis, request for proposal basis, competitive proposal basis or formal sealed competitive bids. The term **Contractor** includes proprietors of proprietorships, partners having an equity interest of 10% or more of partnerships, (including limited liability partnerships and companies), all officers and directors of corporations (including limited liability corporations), and all holders of 10% or more of the outstanding shares of corporations.

**A STATEMENT DISCLOSING THE NAMES AND BUSINESS ADDRESSES EACH OF THOSE PERSONS WILL BE REQUIRED TO BE SUBMITTED WITH EACH BID OR PROPOSAL FOR A CITY CONTRACT.** Completion of the attached form entitled "**Contractor Submission List**" will satisfy this requirement. Failure to provide this information may be just cause for rejection of your bid or proposal.



FORM A  
CONTRACTOR SUBMISSION LIST  
CITY OF HOUSTON FAIR CAMPAIGN ORDINANCE

The City of Houston Fair Campaign Ordinance makes it unlawful for a Contractor to offer any contribution to a candidate for City elective office (including elected officers-elect) during a certain period of time prior to and following the award of the Contract by the City Council. The term "Contractor" includes proprietors of proprietorships, partners or joint venturers having an equity interest of 10 percent or more for the partnership or Joint venture, and officers, directors and holders of 10 percent or more of the outstanding shares of corporations. A statement disclosing the names and business addresses of each of those persons will be required to be submitted with each bid or proposal for a City Contract. See Chapter 18 of the Code of Ordinances, Houston, Texas, for further information.

This list is submitted under the provisions of Section 18-36(b) of the Code of Ordinances, Houston, Texas, in connection with the attached proposal, submission or bid of:

Firm or Company Name: \_\_\_\_\_

Firm or Company Address: \_\_\_\_\_

The firm/company is organized as a (Check one as applicable) and attach additional pages if needed to supply the required names and addresses:

**SOLE PROPRIETORSHIP**

Name \_\_\_\_\_ Address \_\_\_\_\_  
Proprietor

**A PARTNERSHIP**

List each partner having equity interest of 10% or more of partnership (if none state "none")

Name \_\_\_\_\_ Address \_\_\_\_\_  
Partner

Name \_\_\_\_\_ Address \_\_\_\_\_  
Partner

**A CORPORATION**

**LIST ALL DIRECTORS OF THE CORPORATION (IF NONE STATE "NONE")**

Name \_\_\_\_\_ Address \_\_\_\_\_  
Director

Name \_\_\_\_\_ Address \_\_\_\_\_  
Director

Name \_\_\_\_\_ Address \_\_\_\_\_  
Director

**LIST ALL OFFICERS OF THE CORPORATION (IF NONE STATE NONE")**

Name \_\_\_\_\_  
Officer Address

Name \_\_\_\_\_  
Officer Address

Name \_\_\_\_\_  
Officer Address

**LIST ALL INDIVIDUALS OWNING 10% OR MORE OF OUTSTANDING SHARES OF STOCK OF THE CORPORATION (IF NONE STATE "NONE")**

Name \_\_\_\_\_  
Address

Name \_\_\_\_\_  
Address

Name \_\_\_\_\_  
Address

**I certify that I am duly authorized to submit this list on behalf of the firm, that I am associated with the firm in the capacity noted below and that I have personal knowledge of the accuracy of the information provided herein.**

\_\_\_\_\_  
Preparer

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Note: This list constitutes a **government record** as defined by § 37.01 of the Texas Penal Code.

8/23/01

## EXHIBIT VI

### **CITY OF HOUSTON CONTRACTOR OWNERSHIP DISCLOSURE ORDINANCE:**

City Council requires knowledge of the identities of the owners of entities seeking to contract with the City in order to review their indebtedness to the City prior to entering contracts. Therefore, all respondents to this invitation to bid must comply with Houston Code of Ordinances Chapter 15, as amended (Sections 15-122 through 15-126) relating to the disclosure of owners of entities bidding on, proposing for or receiving City contracts. Provisions of this ordinance are provided in part in the paragraphs that follow. Complete copies may be obtained from the office of the City Secretary.

Contracting entity means a sole proprietorship, corporation, non-profit corporation, partnership, joint venture, limited liability company, or other entity that seeks to enter into a contract requiring approval by the Council but excluding governmental entities.

A contracting entity must submit at the time of its bid or proposal, an affidavit listing the full names and the business and residence addresses of all persons owning five percent or more of a contracting entity or, where a contracting entity is a non-profit corporation, the full names and the business and residence addresses of all officers of the non-profit corporation.

Completion of the "**Affidavit of Ownership or Control**", included herein, and submitted with the Official Bid or Proposal Form will satisfy this requirement. Failure to provide this information may be just cause for rejection of your bid or proposal.

ORIG. DEPT.: \_\_\_\_\_

FILE/D.

NO.: \_\_\_\_\_

**INSTRUCTION: ENTITIES USING AN ASSUMED NAME SHOULD DISCLOSE SUCH FACT TO AVOID REJECTION OF THE AFFIDAVIT. THE FOLLOWING FORMAT IS RECOMMENDED: CORPORATE/LEGAL NAME DBA ASSUMED NAME.**

STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

**AFFIDAVIT OF OWNERSHIP OR CONTROL**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ [FULL NAME] (hereafter "Affiant"),  
\_\_\_\_\_ [STATE TITLE/CAPACITY WITH CONTRACTING ENTITY] of  
\_\_\_\_\_ [CONTRACTING ENTITY'S  
CORPORATE/LEGAL NAME] ("Contracting Entity"), who being by me duly sworn on oath stated as follows:

1. Affiant is authorized to give this affidavit and has personal knowledge of the facts and matters herein stated.
2. Contracting Entity seeks to do business with the City in connection with \_\_\_\_\_ [DESCRIBE PROJECT OR MATTER] which is expected to be in an amount that exceeds \$50,000.
3. The following information is submitted in connection with the proposal, submission or bid of Contracting Entity in connection with the above described project or matter.
4. Contracting Entity is organized as a business entity as noted below (check box as applicable).

**FOR PROFIT ENTITY:**

**NON-PROFIT ENTITY:**

- SOLE PROPRIETORSHIP
- CORPORATION
- PARTNERSHIP
- LIMITED PARTNERSHIP
- JOINT VENTURE
- LIMITED LIABILITY COMPANY
- OTHER (Specify type in space below)

- NON-PROFIT CORPORATION
- UNINCORPORATED ASSOCIATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Orig. Dept.: \_\_\_\_\_

File/I.D. No.: \_\_\_\_\_

5. The information shown below is true and correct for the Contracting Entity and all owners of 5% or more of the Contracting Entity and, where the Contracting Entity is a non-profit entity, the required information has been shown for each officer, i.e., president, vice-president, secretary, treasurer, etc. **[NOTE: IN ALL CASES, USE FULL NAMES, LOCAL BUSINESS AND RESIDENCE ADDRESSES AND TELEPHONE NUMBERS. DO NOT USE POST OFFICE BOXES FOR ANY ADDRESS. INCLUSION OF E-MAIL ADDRESSES IS OPTIONAL, BUT RECOMMENDED. ATTACH ADDITIONAL SHEETS AS NEEDED.]**

**Contracting Entity**

Name: \_\_\_\_\_

Business Address **[NO./STREET]** \_\_\_\_\_

**[CITY/STATE/ZIP CODE]** \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address **[OPTIONAL]** \_\_\_\_\_

Residence Address **[NO./STREET]** \_\_\_\_\_

**[CITY/STATE/ZIP CODE]** \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address **[OPTIONAL]** \_\_\_\_\_

**5% Owner(s) or More (IF NONE, STATE "NONE.")**

Name: \_\_\_\_\_

Business Address **[NO./STREET]** \_\_\_\_\_

**[CITY/STATE/ZIP CODE]** \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address **[OPTIONAL]** \_\_\_\_\_

Residence Address **[NO./STREET]** \_\_\_\_\_

**[CITY/STATE/ZIP CODE]** \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

Email Address **[OPTIONAL]** \_\_\_\_\_

Orig. Dept.: \_\_\_\_\_

File/I.D. No.: \_\_\_\_\_

**6. Optional Information**

Contracting Entity and/or \_\_\_\_\_ [NAME OF OWNER OR NON-PROFIT OFFICER] is actively protesting, challenging or appealing the accuracy and/or amount of taxes levied against \_\_\_\_\_ [CONTRACTING ENTITY, OWNER OR NON-PROFIT OFFICER] as follows:

Name of Debtor: \_\_\_\_\_

Tax Account Nos. \_\_\_\_\_

Case or File Nos. \_\_\_\_\_

Attorney/Agent Name \_\_\_\_\_

Attorney/Agent Phone No. (\_\_\_\_) \_\_\_\_\_

Tax Years \_\_\_\_\_

Status of Appeal [DESCRIBE] \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Affiant certifies that he or she is duly authorized to submit the above information on behalf of the Contracting Entity, that Affiant is associated with the Contracting Entity in the capacity noted above and has personal knowledge of the accuracy of the information provided herein, and that the information provided herein is true and correct to the best of Affiant's knowledge and belief.

\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

**NOTE:**  
This affidavit constitutes a government record as defined by Section 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in Section 37.10 of the Texas Penal Code. Attach additional pages if needed to supply the required names and addresses.

## EXHIBIT VII

### Drug Detection And Deterrence Procedures For Contractors

- (a) It is the policy of the City to achieve a drug-free workforce and to provide a workplace that is free from the use of illegal drugs and alcohol. It is also the policy of the City that the manufacture, distribution, dispensation, possession, sale or use of illegal drugs or alcohol by contractors while on City premises is prohibited. By executing this Contract, Contractor represents and certifies that it meets and shall comply with all the requirements and procedures set forth in the Mayor's Policy on Drug Detection and Deterrence, City Council Motion No. 92-1971 ("Mayor's Policy") and the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), both of which are on file in the Office of the City Secretary.
- (b) Confirming its compliance with the Mayor's Policy and Executive Order, Contractor, as a condition precedent to City's obligations under this Contract, will have filed with the Contract Compliance Officer for Drug Testing ("CCODT"), prior to execution of this Contract by the City, (i) a copy of its drug-free workplace policy, (ii) the Drug Policy Compliance Agreement substantially in the format set forth in Attachment "A" to the Executive Order, together with a written designation of all safety impact positions, and (iii) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the format set forth in Attachment "C" to the Executive Order. If Contractor files written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six (6) months during the performance of this Contract or upon the completion of this Contract if performance is less than six (6) months, a Drug Policy Compliance Declaration in a form substantially similar to Attachment "B" to the Executive Order. The Drug Policy Compliance Declaration shall be submitted to the CCODT within thirty days of completion of this Contract. The first six (6) month period shall begin to run on the date City issues its notice to proceed hereunder or if no notice to proceed is issued, on the first day Contractor begins work under this Contract.
- (c) Contractor shall have the continuing obligation to file with the CCODT written designations of safety impact positions and Drug Policy Compliance Declarations at anytime during the performance of this Contract that safety impact positions are added if initially no safety impact positions were designated. Contractor also shall have the continuing obligation to file updated designations of safety impact positions with the CCODT when additional safety impact positions are added to Contractor's employee work force.
- (d) The failure of Contractor to comply with the above Sections shall be a breach of this Contract entitling City to terminate in accordance with Article IV.

**DRUG POLICY COMPLIANCE AGREEMENT**

**ATTACHMENT A**

I, \_\_\_\_\_ as an owner or officer of  
(Name) (Print/Type) (Title)  
\_\_\_\_\_  
(Name of Company) (Contractor)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed.

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title



**DRUG POLICY COMPLIANCE DECLARATION**

**ATTACHMENT "B"**

I, \_\_\_\_\_ as an owner or officer of  
(Name) (Print/Type) (Title)  
\_\_\_\_\_  
(Name of Company) (Contractor)

I have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding six months from \_\_\_\_\_ to \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_ A written Drug Free Workplace Policy has been implemented and employees notified. The policy  
**Initials** meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence  
(Mayor's Policy).

\_\_\_\_\_ Written drug testing procedures have been implemented in conformity with the Mayor's Drug **Initials**  
Detection and Deterrence Procedures for Contractors, Executive Order 1-31. Employees have  
been notified of such procedures.

\_\_\_\_\_ Collection/testing has been conducted in compliance with federal Health and Human Services  
**Initials** (HHS) guidelines.

\_\_\_\_\_ Appropriate safety impact positions have been designated for employee positions performing on  
**Initials** the City of Houston contract. The number of employees on safety impact positions during this  
reporting period is \_\_\_\_\_.

\_\_\_\_\_ From \_\_\_\_\_ to \_\_\_\_\_ the following testing has occurred:  
**Initials** (start date) (end date)

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number of Employees Tested	_____	_____	_____	_____
Number of Employees Positive	_____	_____	_____	_____
Percent Employees Positive	_____	_____	_____	_____

\_\_\_\_\_ Any employee who tested positive was immediately removed from the City worksite consistent  
**Initials** with the Mayor's Policy and Executive Order No. 1-31.

\_\_\_\_\_ I affirm that falsification or failure to submit this declaration timely in accordance with  
**Initials** established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this  
declaration are within my personal knowledge and are true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Contractor's Certification Of No Safety Impact Positions In Performance Of A City Contract  
ATTACHMENT "C"**

I, \_\_\_\_\_  
**(Name) (Print/Type) (Title)**

as an owner or officer of \_\_\_\_\_  
(Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has no employee safety impact positions as defined in §5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Contractor agrees and covenants that it shall immediately notify the City's Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

---

---

**CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF  
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES  
FOR CONTRACTORS  
ATTACHMENT "D"**

I, \_\_\_\_\_ as an owner or officer of  
**(NAME) (PRINT/TYPE)**

\_\_\_\_\_ (Contractor)  
have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer than fifteen (15) employees during any 20-week period during a calendar year and also certify that Contractor has no employee safety impact positions as defined in 5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Safety impact position means a Contractor's employment position involving job duties that if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health or safety of the employee, co-workers, and/or the public.

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**CONTRACTOR'S NAME**

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**TITLE**

## EXHIBIT VIII

### Anti-Collusion Statement

The undersigned, as Proposer, certifies that the only person or parties interested in this proposal as principals are those named herein; that the Proposer has not, either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the award of this contract.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Proposer Signature

## EXHIBIT IX

### CONFLICT OF INTEREST QUESTIONNAIRE

Chapter 176 of the Local Government Code requires every Vendor or Contractor with the City of Houston ("City") to file a Conflict of Interest Questionnaire with the City Secretary of the City of Houston by the seventh business day after:

- (1) any contract discussions or negotiations begin, or
- (2) submitting an application, responses to requests for proposals, bids, correspondence, or any writing related to a potential agreement with the City.

The Conflict of Interest Questionnaire is available for downloading from the Texas Ethics Commission's website at <http://www.ethics.state.tx.us/forms/CIQ.pdf>. The completed Conflict of Interest Questionnaires will be posted on the City Secretary's website. There will also be a list of the City's Local Government Officers on the City of Houston's website.

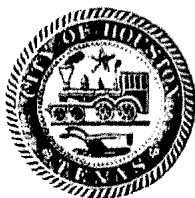
Additionally, each Vendor or Contractor must file updated questionnaires no later than September 1<sup>st</sup> of each year that the Vendor or Contractor seeks to contract with the City, or the seventh business day after the date of an event that would render the questionnaire incomplete or inaccurate.

However, a Vendor or Contractor is not required to file a new questionnaire in any year if the vendor has completed a questionnaire between June 1<sup>st</sup> and September 1<sup>st</sup> of that year, unless the previous questionnaire is incomplete or inaccurate.

Original Conflict of Interest Questionnaire shall be filed with Houston's Records Administrator (Ms. Anna Russell, City Secretary, 900 Bagby, First Floor, Houston, Texas 77002). Vendors and Contractors shall include a copy of the form that was submitted to the City Secretary as part of the BID package. Any questions about filling out this form should be directed to your attorney

Failure of any Vendor or Contractor to comply with this law is a Class C misdemeanor.

**EXHIBIT X**  
**CITY CONTRACTORS' PAY OR PLAY PROGRAM**



**CITY OF HOUSTON  
PAY OR PLAY PROGRAM  
Acknowledgement Form**

Form POP-1A

**What this form does.** This form acknowledges your awareness of the Pay or Play program. Your signature affirms that you will comply with the requirements of the program if you are the successful bidder/proposer, and ensure the same on behalf of subcontracts subject to the Pay or Play Program.

If you cannot make this assurance now, do not return this form.

**For more information, contact the Contract Administrator.**

**Routing.** Return this form with your bid or proposal.

I declare under penalty of perjury under the laws of the State of Texas that if awarded a contract, I will comply with the requirements of the Pay or Play Program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
City Vendor ID

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

**CERTIFICATION OF AGREEMENT TO  
COMPLY WITH PAY OR PLAY PROGRAM**

Contractor Name: \_\_\_\_\_ \$ \_\_\_\_\_  
(Contractor/Subcontractor) (Amount of Contract)

Contractor Address: \_\_\_\_\_

Project No.: [GFS/CIP/AIP/File No.] \_\_\_\_\_

Project Name: [Legal Project Name] \_\_\_\_\_

In accordance with the City of Houston Pay or Play Program authorized by Ordinance 2007-534, Contractor agrees to abide by the terms of this Program. This certification is required of all contractors for contracts subject to the program. You must agree EITHER to PAY or to PLAY for each covered employee, including those of subcontractors subject to the program.

Yes  No Contractor agrees to Pay \$1.00 per hour for work performed by covered employees, including covered subcontractors' employees, under the contract with the City.

Yes  No Contractor agrees to offer health benefits to each covered employee, including covered subcontractors' employees that meet or exceed the following criteria:  
(1) the employer will contribute no less than \$150 per employee per month toward the total premium cost; and  
(2) the employee contribution, if any amount, will be no greater than 50% of the total premium cost.

Yes  No Contractor agrees to pay of behalf of some covered employees and play on behalf of other covered employees, in accordance with program requirements, including subcontractors' employees, if applicable.

Yes  No Contractor will comply with all provisions of the Pay or Play Program and will furnish all information and reports requested to determine compliance with program provisions.

Yes  No For Prime Contractors Only: Contractor will file compliance reports with the City, which will include activity for subcontractors subject to the program, in the form and to the extent requested by the administering department or the Affirmative Action and Contract Compliance Office. Compliance reports shall contain information including, but not limited to, documentation showing employee health coverage and employee work records.

I hereby certify that the above information is true and correct.

\_\_\_\_\_  
CONTRACTOR (Signature)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NAME AND TITLE (Print or type)

## EXHIBIT XI

### CURRENT OPERATIONS OVERVIEW

A PDF document of EXHIBIT XI can be viewed with the Proposal on the web site at:

<http://purchasing.houstontx.gov/>





## EXHIBIT XII

### DATA MIGRATION INFORMATION

A PDF document of EXHIBIT XII can be viewed with the Proposal on the web site at:

<http://purchasing.houstontx.gov/>



## EXHIBIT XIII

### LABORATORY INSTRUMENTATION

A PDF document of EXHIBIT XIII can be viewed with the Proposal on the web site at:

<http://purchasing.houstontx.gov/>



## EXHIBIT XIV

### FUNCTIONAL AND OPERATIONAL REQUIREMENTS

A PDF document of EXHIBIT XIV can be viewed with the Proposal on the web site at:

<http://purchasing.houstontx.gov/>



## EXHIBIT XV

### REQUIREMENTS MATRIX

A PDF document of EXHIBIT XV can be viewed with the Proposal on the web site at:

<http://purchasing.houstontx.gov/>



## EXHIBIT XVI

### VENDOR DEMONSTRATION SCRIPT

A PDF document of EXHIBIT XVI can be viewed with the Proposal on the web site at:

<http://purchasing.houstontx.gov/>







# CITY OF HOUSTON

Strategic Purchasing Division  
Administration and Regulatory Affairs Department

Bill White  
Mayor

Joyce A. Hays  
Sr. Procurement Specialist  
High Technology Procurement  
P.O. Box 1562  
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713.247.3039  
E-mail:  
[Joyce.Hays@cityofhouston.net](mailto:Joyce.Hays@cityofhouston.net)

May 28, 2008

**SUBJECT:** Letter of Clarification 1

**REFERENCE:** Request for Proposal No.: **S37-T22904 for Laboratory Information Management System (LIMS)**

**TO:** All Prospective Proposers:

- This Letter of Clarification is issued for the following reasons:
- To clarify the above referenced solicitation as follows:

**1.0** Page 39, Section 1.0, EVALUATION SUMMARY, Sub-Section 1.1, under SECTION IV, EVALUATION & SELECTION PROCESS IS REMOVED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING PARAGRAPH:

**1.1** ~~An evaluation committee will develop a short list of Proposers based on Proposer scores obtained for Items 1-4 in the table in Section IX.B. These short listed Proposers will be scheduled for a structured oral demonstration and interview.~~

New Paragraph

**1.1** An evaluation committee will develop a list of Proposers for demonstration purposes.

- 2.0** Exhibit XIII, Laboratory Instrument Checklist, remains unchanged and all references to it in the Scope of Work have been checked and are correct.
- 3.0** Exhibit XIV, Functional & Operational Requirements, page 1, has been revised to show Exhibit "XIV", rather than Exhibit "XIII".
- 4.0** Exhibit XV, Requirements Matrix, the Header has been revised to reflect Exhibit "XV" rather than Exhibit "XIV".

- The following questions and City of Houston responses are hereby incorporated and made a part of the Request for Proposal:

**1.0** Please describe the process for submitting issues we would like to address in the contract terms. We have identified several including the need for a license agreement, indemnification, etc. Should we submit a list of issues with our proposal along with our standard agreements?

**2.0** MWBE 11% Requirement – is this 11% of the services or 11% of the entire proposal? Does the MWBE organization have to be currently registered or recognized by the City of Houston or can this registration/recognition take place upon award? Are we required to name the MWBE organization in the proposal or can we simply state compliance and assign upon award?

**ANSWER:** As the City recognizes that the percentage cannot be applied to the software application it must be applied to the services portion. The MWBE must be registered with the City of Houston and named at the time the proposal is submitted. You can verify that registration online through the City of Houston website listing under the Affirmative Action Department.

**3.0** Response Requirements – do you require responses to individual requirement statements outside the functional requirements matrix? For example, Section II, 4.6 IT Requirements lists various infrastructure elements – should we provide direct answers or simply state compliance in the proposal text? It appears these requirements are included in the matrix, confirming your expectation.

**ANSWER:** The matrix serves as a summary of the requirements stated in the RFP. Responses need only be made to the matrix unless there is a need for clarification.

**4.0** Section 4.10.3 – What is the schedule for the implementation of the RMS? Will an interface to that system be required as part of this solicitation?

**ANSWER:** This information is not available at this time.

**5.0** Section 4.10.7 – What is the schedule for implementation of the EMS? When will the interface requirements for EMS to LIMS be available at the start of this project?

**ANSWER:** They are not available at this time. Implementation of the EMS is estimated to begin in 4-5 months.

**6.0** Section 4.10.8 – Are more details on the interface to the Subpoena System to LIMS available? What does the "personnel scheduling data" consist of?

**ANSWER:** This is not a requirement and it is not mandatory. It is on an Oracle database. The manufacturer is Maximus. The scheduling part of this program is not working properly.

**7.0** Section III 4.2 – The requirement to list all clients using the same version of our application in the last 3 years would mean a list of several hundred organizations – can this be limited to relevant references?

**ANSWER:** Yes, please list at least 15 to 30 that are verifiable.

**8.0** Section III 4.3, 4.5, 7.0 – personnel for the project cannot reasonably be assigned before award. Are representative resumes and work assignments acceptable?

**ANSWER:** Yes. Please provide complete resumes with current and past work assignments for these individuals.



9.0 Pay or Play and how that works with subs – e.g. insurance benefits are paid directly by subs.

**ANSWER:** *Questions about the program should be referred to the Office of Affirmative Action and Contract Compliance at 713-837-9028. Please ask for Bobby Qasim.*

10.0 Will Barcode/Rfid equipment for use with this system be purchased separately from this proposal?

**ANSWER:** **YES.**

11.0 Section 23.2 – Events – Contract start date Oct. 10, 2008. Requirement 24, Section II E from matrix 'The LIMS implementation shall be completed and available for production use by December 31, 2008.' It is not possible to implement in this time period, is this negotiable?

**ANSWER:** **This project needs to be implemented by this date with the understanding that there could be setbacks.**

12.0 Is the MS SQL Server 2005 mandatory for the database platform?

**ANSWER:** **Yes this is mandatory.**

13.0 In the RFP (sections 4.10.3 to 4.10.6) you describe the On-Line Offense system and how the LIMS should connect to it until a new Records Management System (RMS) is purchased to replace it. Have you selected an RMS for this purpose or can the LIMS vendors propose a solution to replace the OLO with a new RMS?

**ANSWER:** **This information is not available at this time.**

14.0 In the RFP (section 4.10.7) you describe the required Evidence Management System (EMS) that is to be installed in the HPD Property Room. Have you selected an EMS for this purpose or can the LIMS vendors propose a solution for the EMS in the HPD Property Room?

**ANSWER:** **Porter Lee Corporation has been selected to install and implement the evidence management system.**

15.0 In the RFP (section 4.10.8) you describe the Subpoena System (SS) that is currently used by the HPD for liaising with the courts. You request that the LIMS vendors submit separate pricing for interfacing with this system. Can you supply more information about the current application (such as the database used, is it on-site or off-site, etc) and / or can the LIMS vendors propose a built-in solution for a subpoena system?

**ANSWER:** **This is not a requirement or mandatory. The subpoena system is an Oracle database. The manufacturer is Maximus. This software is owned by Municipal Courts. It is on site. You may propose a solution for this system.**

16.0 In the RFP (section 4.11.1) you request pricing for 36 concurrent users. Are all of these users laboratory type users that will be entering data into the LIMS or accessing other functionality such as review and approval capabilities? Can you provide a number of concurrent users for the persons accessing electronically delivered finished data? Can you also define what the "web components accessed by laboratory customers" are and how many laboratory customers

there are that will be accessing these components, either as a total figure or as a concurrent number?

**ANSWER:** The 36 concurrent refers to the anticipated number of people that might interact with the database through the main, licensed software interface at any given time. This does not represent the total number of laboratory employees who have the ability to access the database from their work-stations, which is anticipated to be in excess of 100 individuals.

There may be 2500 or more individuals utilizing the web interface to access case status, evidence location or finalized reports. These individuals will not be manipulating any information stored in the database as would the laboratory employees. These individuals would include officers, investigators, members of management, the District Attorney's Office and outside agencies that submit evidence to the HPD.

**17.0** In the RFP (section 4.2) you request a synopsis along with contact information for all implementations over the last three years. This is well over 200 customers; will a listing of customers that have purchased our LIMS over the last three years suffice?

**ANSWER:** This has been previously answered in Question #7.

**18.0** In the RFP (section IV, 1.1) you refer to section IX.B; where can I find this section?

**ANSWER:** This section has been removed in its entirety and replaced with the following paragraph:

**An evaluation committee will develop a list of Proposers for demonstration purposes.**

**19.0** In the RFP (Section III, 6.1 to 6.2) you state that all requirements are described in the RFP (section IV) and Exhibit XIV. Do the LIMS vendors need to respond directly to the Exhibit or just to the Requirements Matrix (Exhibit XV)?

**ANSWER:** Please respond to the Matrix. However the RFP section IV and Exhibit XIV will have the most description. Please consider all when responding.

**20.0** Internet access clarification: In reference to the requirements matrix, in item 62 you state "All of the LIMS modules" for internet access; but in item 65 you ask for vendors to make recommendations on internet access for modules. Is internet access for all modules required?

**ANSWER:** No. Internet access would be for individuals outside the lab who have a need to check case status, assignments or reports.

**21.0** Instrument Interfaces clarification: In reference to the requirements matrix, in items 72, 73 and 74 you list instrument interfaces as "HD"; but in items 75 and 76 (Bi-directional) you list as "M". In item 402 you list ICP as one of the instruments. Are instrument interfaces mandatory "M"?

**ANSWER:** No.

**ANSWER:** You may provide this information in your proposal for our consideration.

**23.0** In reference to Section 4.3, System Documentation (pg 22 of the solicitation) - "The Proposer shall provide electronic and printed documentation for the delivered LIMS." - Is it the City's intent that this documentation be submitted with the proposal, or after contract award?

**ANSWER:** After the contract is awarded.

**24.0** In reference to Section 4.2 (pg. 33 of the solicitation) The City is asking for references for clients with the same software version of our proposed LIMS. In addition to this, would the City also accept references substantiating the quality of other tasks required in this solicitation i.e. data conversion, training, implementation and support?

**ANSWER:** Please list references currently using the software version proposed for implementation for HPD Crime Lab.

When issued, Letter(s) of Clarification shall automatically become a part of the solicitation documents and shall supersede any previous specification(s) and/or provision(s) in conflict with the Letter(s) of Clarification. It is the responsibility of the proposers to ensure that they have obtained any such previous Letter(s) associated with this solicitation. By submitting a proposal on this project, proposers shall be deemed to have received all Letter(s) of Clarification and to have incorporated them into this solicitation.

If you have any questions or if further clarification is needed regarding this Request for Proposal, please contact me.

Sincerely,



Joyce A. Hays  
Sr. Procurement Specialist  
High Technology Procurement  
T: 832-393-8723  
F: 713-247-3039

DM

Attachments: Revised pages



**Request for Proposal  
for  
Houston Police Department LIMS**

**S37-T22904**

**EXHIBIT XIII  
Functional and Operational Requirements**

**Version 2 Release 0**



**Request for Proposal  
for  
Houston Police Department LIMS**

**S37-T22904**

**EXHIBIT XIV  
Functional and Operational Requirements**

**Version 2 Release 0**

**REVISED MAY 27, 2008**

REQ#	REQUIREMENT (See RFP Section for more detail)	RFP Section	CODE	YES, Y/C, A, NO	REF	Comments
	<b>Key</b>					
	MANDATORY	M				
	HIGHLY DESIRABLE	HD				
	DESIRABLE	D				
	<b>INSTALLATION, TRAINING AND SUPPORT</b>					
	<b>Installation:</b>					
1	The proposal shall include a pre-installation owner checklist that covers hardware, software and staffing levels that the HPD must provide.	V.A	M			
2	The selected LIMS Proposer or its designated representative shall perform the initial installation of the LIMS including configuration, data conversion and customization tasks.	V.A	M			
3	Proposers shall provide, as part of their proposal, a path or sequence of events, including a timetable, for the completion of this effort.	V.A	M			
4	This discussion shall address the various worksheets, reporting formats, and other customized documentation required by the laboratory.	V.A	M			
	<b>Training:</b>					
5	The Proposer shall make recommendations for on-site training and / or propose facilities for HPD personnel to install, configure, use, and maintain the new LIMS, based on the requirements stated in this document.	V.B	M			
6	Training shall be for approximately 130 personnel and shall include instruction for any 3rd-party software integrated with the LIMS, for configuration and for end-user purposes.	V.B	M			
7	The Proposer shall provide training to System Administration users at the time of initial installation.	V.B	M			
8	The Proposer shall provide end-user training at a time mutually agreed upon by the Proposer and HPD	V.B	M			
9	Training provided to System Administrators shall include system installation, configuration, user interface, instrument integration, data review, reporting, data backup, and maintenance.	V.B	M			
10	End User training shall include all LIMS tasks and functions related to the End User's job duties including uploading instrument results.	V.B	M			
11	The proposal shall include a detailed discussion of how LIMS training is to be addressed.	V.B	M			
12	The discussion shall include a list of course titles, course abstracts, a description of the target audience, and typical class lengths.	V.B	M			

REQ#	REQUIREMENT (See RFP Section for more detail)	RFP Section	CODE	YES/NO	REF	Comments
	<b>Key</b>					
	MANDATORY	M				
	HIGHLY DESIRABLE	HD				
	DESIRABLE	D				
<b>INSTALLATION, TRAINING AND SUPPORT</b>						
1	<b>Installation:</b> The proposal shall include a pre-installation owner checklist that covers hardware, software and staffing levels that the HPD must provide.	II.A	M			
2	The selected LIMS Proposer or its designated representative shall perform the initial installation of the LIMS including configuration, data conversion and customization tasks.	II.A	M			
3	Proposers shall provide, as part of their proposal, a path or sequence of elements, including a timetable, for the completion of this effort.	II.A	M			
4	This discussion shall address the various worksheets, reporting formats, and other customized documentation required by the laboratory.	II.A	M			
5	<b>Training:</b> The Proposer shall make recommendations for on-site training and / or propose facilities for HPD personnel to install, configure, use, and maintain the new LIMS, based on the requirements stated in this document.	II.B	M			
6	Training shall be for approximately 130 personnel and shall include instruction for any 3rd-party software integrated with the LIMS, for configuration and for end-user purposes.	II.B	M			
7	The Proposer shall provide training to System Administration users at the time of initial installation.	II.B	M			
8	The Proposer shall provide end-user training at a time mutually agreed upon by the Proposer and HPD	II.B	M			
9	Training provided to System Administrators shall include system installation, configuration, user interface, instrument integration, data retrieval, reporting, data backup, and maintenance.	II.B	M			
10	End User training shall include all LIMS tasks and functions related to the End User's job duties including uploading instrument results.	II.B	M			
11	The proposal shall include a detailed discussion of how LIMS training is to be addressed.	II.B	M			
12	The discussion shall include a list of course titles, course abstracts, a description of the target audience, and typical class lengths.	II.B	M			

## SECTION IV

### EVALUATION AND SELECTION PROCESS

#### 1.0 Evaluation Summary:

- 1.1 ~~An evaluation committee will develop a short list of Proposers based on Proposer scores obtained for Items 1-4 in the table in Section IX.B. These short-listed Proposers will be scheduled for a structured oral demonstration and interview.~~
- 1.2 The demonstration shall follow a script, which is attached as **EXHIBIT XV – “Vendor Demonstration Script”**. The demonstration script has been developed from the requirements presented in the RFP. Each Proposer's demonstration evaluation will be based upon the viewing team's interpretation of the capability of the proposed system in accomplishing the steps of the demonstration. The Proposer is expected to prepare thoroughly for the demonstration and should be prepared to demonstrate the proposed system as soon as one (1) week after proposals are due.
- 1.3 Such presentations will be at no cost to the City of Houston. At the end of the oral presentation and interview, the evaluation of the short-listed Proposers will be completed. The oral interview may be recorded and/or videotaped.

#### 2.0 Selection Process

- 2.1 The award of this contract(s) will be made to the Proposer(s) offering the response which best meets the needs of HPD. HPD may make investigations, as it deems necessary, to determine the capabilities of the Proposer to create, modify and implement the required application modules. The Proposer shall furnish to HPD such data as HPD may request for this purpose. HPD reserves the right to reject any offer if the evidence submitted by or the investigation of the Proposer fails to satisfy HPD that the Proposer is properly qualified to provide the services contemplated. Each Proposer will be evaluated on the basis of the following evaluation criteria:
  1. Submission of Required Documentation: Failure to submit required documentation may result in rejection of the proposal
  2. Objective Evaluation of the Offeror's Proposal – Evaluation of Responses to the Requirements Matrix
  3. Subjective Evaluation of the Offeror's Proposal
    - Project Implementation, Training and Test Plans
    - Project Plans and Implementation Approach
    - Training and Test Plan
  4. Vendor Qualifications
    - Corporate Experience, References, and Product Maturity
    - Key Personnel Qualifications, Experience and Availability
    - Financial Strength
  5. Evaluation of the Cost Proposals
  6. MWBE Capacity



## SECTION IV

### EVALUATION AND SELECTION PROCESS

#### 1.0 Evaluation Summary:

- 1.1 An evaluation committee will develop a list of Proposers for demonstration purposes.
- 1.2 The demonstration shall follow a script, which is attached as **EXHIBIT XV – “Vendor Demonstration Script”**. The demonstration script has been developed from the requirements presented in the RFP. Each Proposer's demonstration evaluation will be based upon the viewing team's interpretation of the capability of the proposed system in accomplishing the steps of the demonstration. The Proposer is expected to prepare thoroughly for the demonstration and should be prepared to demonstrate the proposed system as soon as one (1) week after proposals are due.
- 1.3 Such presentations will be at no cost to the City of Houston. At the end of the oral presentation and interview, the evaluation of the short-listed Proposers will be completed. The oral interview may be recorded and/or videotaped.

#### 2.0 Selection Process

- 2.1 The award of this contract(s) will be made to the Proposer(s) offering the response which best meets the needs of HPD. HPD may make investigations, as it deems necessary, to determine the capabilities of the Proposer to create, modify and implement the required application modules. The Proposer shall furnish to HPD such data as HPD may request for this purpose. HPD reserves the right to reject any offer if the evidence submitted by or the investigation of the Proposer fails to satisfy HPD that the Proposer is properly qualified to provide the services contemplated. Each Proposer will be evaluated on the basis of the following evaluation criteria:
  1. Submission of Required Documentation: Failure to submit required documentation may result in rejection of the proposal
  2. Objective Evaluation of the Offeror's Proposal – Evaluation of Responses to the Requirements Matrix
  3. Subjective Evaluation of the Offeror's Proposal
    - Project Implementation, Training and Test Plans
    - Project Plans and Implementation Approach
    - Training and Test Plan
  4. Vendor Qualifications
    - Corporate Experience, References, and Product Maturity
    - Key Personnel Qualifications, Experience and Availability
    - Financial Strength
  5. Evaluation of the Cost Proposals
  6. MWBE Capacity

REVISED MAY 27, 2008





# CITY OF HOUSTON

Strategic Purchasing Division  
Administration and Regulatory Affairs Department

Bill White  
Mayor

Joyce A. Hays  
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713.247.3039  
E-mail:  
[Joyce.Hays@cityofhouston.net](mailto:Joyce.Hays@cityofhouston.net)

May 30, 2008

**SUBJECT:** Letter of Clarification 2

**REFERENCE:** Request for Proposal No.: **S37-T22904 for Laboratory Information Management System (LIMS)**

**TO:** All Prospective Proposers:

- This Letter of Clarification is issued for the following reasons:
- To clarify the above referenced solicitation as follows:
- The following questions and City of Houston responses are hereby incorporated and made a part of the Request for Proposal:

The answer to Question No. 1 was inadvertently omitted in Clarification 1.

- 1.0** Please describe the process for submitting issues we would like to address in the contract terms. We have identified several including the need for a license agreement, indemnification, etc. Should we submit a list of issues with our proposal along with our standard agreements?

**ANSWER:** Not at this time – this will be part of the contract negotiation if you are selected.

When issued, Letter(s) of Clarification shall automatically become a part of the solicitation documents and shall supersede any previous specification(s) and/or provision(s) in conflict with the Letter(s) of Clarification. It is the responsibility of the proposers to ensure that they have obtained any such previous Letter(s) associated with this solicitation. By submitting a proposal on this project, proposers shall be deemed to have received all Letter(s) of Clarification and to have incorporated them into this solicitation.

If you have any questions or if further clarification is needed regarding this Request for Proposal, please contact me.

Sincerely,

Joyce A. Hays  
Sr. Procurement Specialist  
High Technology Procurement  
T: 832-393-8723  
F: 713-247-3039





# CITY OF HOUSTON

Strategic Purchasing Division  
Administration and Regulatory Affairs Department

Bill White  
Mayor

4

Joyce A. Hays  
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High Technology Procurement  
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June 2, 2008

T. 713.247.1802 F.  
713.247.3039  
E-mail:  
[Joyce.Hays@cityofhouston.net](mailto:Joyce.Hays@cityofhouston.net)

**SUBJECT:** Letter of Clarification 3

**REFERENCE:** Request for Proposal No.: **S37-T22904 for Laboratory Information Management System (LIMS)**

**TO:** All Prospective Proposers:

- This Letter of Clarification is issued for the following reasons:
- The due date for the above-referenced RFP is extended from June 6, 2008 to June 13, 2008 at 2:00 P.M. Additionally, no additional questions may be submitted for response.

When issued, Letter(s) of Clarification shall automatically become a part of the solicitation documents and shall supersede any previous specification(s) and/or provision(s) in conflict with the Letter(s) of Clarification. It is the responsibility of the proposers to ensure that they have obtained any such previous Letter(s) associated with this solicitation. By submitting a proposal on this project, proposers shall be deemed to have received all Letter(s) of Clarification and to have incorporated them into this solicitation.

If you have any questions or if further clarification is needed regarding this Request for Proposal, please contact me.

Sincerely,

Joyce A. Hays  
Sr. Procurement Specialist  
High Technology Procurement  
T: 832-393-8723  
F: 713-247-3039





# CITY OF HOUSTON

Administration and Regulatory Affairs Department  
Strategic Purchasing Division

5  
**Bill White**  
Mayor

Calvin D. Wells, Deputy Director  
City Purchasing Agent  
P.O. Box 1562  
Houston, Texas 77251-1562

F. 823-393-8755  
<https://purchasing.houstontx.gov>

July 10, 2009

Mr. Tim Smith  
Porter Lee Corporation  
1901 Wright Blvd.  
Schaumburg, IL 60193

**Subject: Notice to Proceed**

**Re:** 1) Contract No. 4600009123 for Laboratory Information Management System  
2) Request for Proposal No. T22904

Dear Mr. Smith:

This will serve as your Notice-to-Proceed on Contract No. 4600009123 passed by the Houston City Council on June 30, 2009, Ordinance Number 2009-0639. The Contract is effective as of 12:01 a.m. on July 9, 2009 and the contractor shall continue to provide the services specified therein until expiration of the contract term on July 8, 2012.

This contract was awarded for an amount not to exceed \$825,390.00.

Attached is your copy of the signed contract. You will find therein the contract and ordinance numbers. The contract (4600009123) and ordinance (2009-0639) numbers must be used on all invoices and correspondence relating to this contract or work accomplished under this contract.

If you have any questions regarding this contract, please contact Joyce Hays at 832-393-8723.

Sincerely,

dm Calvin D. Wells  
City Purchasing Agent

Attachment: Contract Number 4600009123

cc: Joseph Fenninger, Deputy Director, Budget & Finance, HPD  
Pat Cheesman, IRM, HPD

*Partnering to better serve Houston*

Council Members: Toni Lawrence Jarvis Johnson Anne Clutterbuck Wanda Adams Mike Sullivan M.J. Khan, P.E. Pam Holm Edward Gonzalez  
James Rodriguez Peter Brown Sue Lovell Melissa Noriega Ronald C. Green Jolanda "Jo" Jones Controller: Annise D. Parker







## CITY OF HOUSTON

Administration and Regulatory Affairs Department  
Strategic Purchasing Division

6  
**Bill White**  
Mayor

Calvin D. Wells  
City Purchasing Agent  
P.O. Box 1562  
Houston, Texas 77251-1562

F. 832.393.8755  
<https://purchasing.houstontx.gov>

July 13, 2009

Mr. Jeff Braucher  
JusticeTrax, Inc.  
One West Main Street  
Mesa, AZ 85201

Subject: No Award

RE: Request for Proposal (RFP): S37-T22904 for a Laboratory Information Management System for the City of Houston Police Department

Dear Mr. Braucher:

This letter is your formal notification that the City of Houston has completed its review of all proposals submitted in response to the above referenced RFP. Please be advised that after careful examination and review of your proposal, consistent with the RFP, JusticeTrax, Inc. cannot be given further consideration.

Porter Lee Corporation has complied with all the requirements of the RFP and was determined by the evaluation committee as the best respondent. Therefore, Porter Lee Corporation was recommended to City Council for the award of the Laboratory Information Management System for the City of Houston Police Department.

We appreciate your interest in wanting to do business with the City of Houston and encourage your continued interest in all future procurements.

If you should need additional information please contact me at 832-393-8723. Thank you!

Sincerely,

Joyce Hays  
Sr. Procurement Specialist  
City of Houston, Strategic Purchasing Division

cc: T23107 Solicitation File

*Partnering to better serve Houston*

Council Members: Toni Lawrence Jarvis Johnson Anne Clutterbuck Wanda Adams Mike Sullivan M.J. Khan, P.E. Pam Holm Adrian Garcia  
James Rodriguez Peter Brown Sue Lovell Melissa Noriega Ronald C. Green Jolanda "Jo" Jones Controller: Annise D. Parker



## CITY OF HOUSTON

Administration and Regulatory Affairs Department  
Strategic Purchasing Division

**Bill White**  
Mayor

Calvin D. Wells  
City Purchasing Agent  
P.O. Box 1562  
Houston, Texas 77251-1562

F. 832.393.8755  
<https://purchasing.houston.tx.gov>

July 13, 2009

Mr. David Nixon  
Labware, Inc.  
Three Mill Road, Suite 102  
Wilmington, De 19806

Subject: No Award

RE: **Request for Proposal (RFP): S37-T22904** for a Laboratory Information Management System for the City of Houston Police Department

Dear Mr. Nixon:

This letter is your formal notification that the City of Houston has completed its review of all proposals submitted in response to the above referenced RFP. Please be advised that after careful examination and review of your proposal, consistent with the RFP, Labware, Inc. cannot be given further consideration.

Porter Lee Corporation has complied with all the requirements of the RFP and was determined by the evaluation committee as the best respondent. Therefore, Porter Lee Corporation was recommended to City Council for the award of the Laboratory Information Management System for the City of Houston Police Department.

We appreciate your interest in wanting to do business with the City of Houston and encourage your continued interest in all future procurements.

If you should need additional information please contact me at 832-393-8723. Thank you!

Sincerely,

Joyce Hays  
Sr. Procurement Specialist  
City of Houston, Strategic Purchasing Division

cc: T23107 Solicitation File

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Council Members: Toni Lawrence Jarvis Johnson Anne Clutterbuck Wanda Adams Mike Sullivan M.J. Khan, P.E. Pam Holm Adrian Garcia  
James Rodriguez Peter Brown Sue Lovell Melissa Noriega Ronald C. Green Jolanda "Jo" Jones Controller: Annise D. Parker



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<https://purchasing.houstontx.gov>

July 13, 2009

Mr. Chuck Costanza  
McClane Advanced Technologies  
4001 Central Pointe Parkway  
Temple, Texas 76504

Subject: No Award

RE: Request for Proposal (RFP): S37-T22904 for a Laboratory Information Management System for the City of Houston Police Department

Dear Mr. Costanza:

This letter is your formal notification that the City of Houston has completed its review of all proposals submitted in response to the above referenced RFP. Please be advised that after careful examination and review of your proposal, consistent with the RFP, McClane Advanced Technologies cannot be given further consideration.

Porter Lee Corporation has complied with all the requirements of the RFP and was determined by the evaluation committee as the best respondent. Therefore, Porter Lee Corporation was recommended to City Council for the award of the Laboratory Information Management System for the City of Houston Police Department.

We appreciate your interest in wanting to do business with the City of Houston and encourage your continued interest in all future procurements.

If you should need additional information please contact me at 832-393-8723. Thank you!

Sincerely,

Joyce Hays  
Sr. Procurement Specialist  
City of Houston, Strategic Purchasing Division

cc: T23107 Solicitation File

*Partnering to better serve Houston*

Council Members: Toni Lawrence Jarvis Johnson Anne Clutterbuck Wanda Adams Mike Sullivan M.J. Khan, P.E. Pam Holm Adrian Garcia  
James Rodriguez Peter Brown Sue Lovell Melissa Noriega Ronald C. Green Jolanda "Jo" Jones Controller: Annise D. Parker



## CITY OF HOUSTON

Administration and Regulatory Affairs Department  
Strategic Purchasing Division

**Bill White**  
Mayor

Calvin D. Wells  
City Purchasing Agent  
P.O. Box 1562  
Houston, Texas 77251-1562

F. 832.393.8755  
<http://purchasing.houston.tx.gov>

July 13, 2009

Mr. David P. Romig II  
The Computer Solution Company of Virginia, Inc.  
1525 Huguenot Road  
Midlothian, VA 23113

Subject: No Award

RE: Request for Proposal (RFP): S37-T22904 for a Laboratory Information Management System for the City of Houston Police Department

Dear Mr. Romig:

This letter is your formal notification that the City of Houston has completed its review of all proposals submitted in response to the above referenced RFP. Please be advised that after careful examination and review of your proposal, consistent with the RFP, The Computer Solution Company of Virginia, Inc. cannot be given further consideration.

Porter Lee Corporation has complied with all the requirements of the RFP and was determined by the evaluation committee as the best respondent. Therefore, Porter Lee Corporation was recommended to City Council for the award of the Laboratory Information Management System for the City of Houston Police Department.

We appreciate your interest in wanting to do business with the City of Houston and encourage your continued interest in all future procurements.

If you should need additional information please contact me at 832-393-8723. Thank you!

Sincerely,

Joyce Hays  
Sr. Procurement Specialist  
City of Houston, Strategic Purchasing Division

cc: T23107 Solicitation File

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## CITY OF HOUSTON

Administration and Regulatory Affairs Department  
Strategic Purchasing Division

**Bill White**  
Mayor

Calvin D. Wells  
City Purchasing Agent  
P.O. Box 1562  
Houston, Texas 77251-1562

F. 832.393.8755  
<https://purchasing.houston.tx.gov>

July 13, 2009

Mr. Neal Wunderlich  
Wunderlich-Malec Systems  
2855 Trinity Square Drive, Suite 100  
Carrollton, Texas 75006

Subject: No Award

RE: **Request for Proposal (RFP): S37-T22904** for a Laboratory Information Management System for the City of Houston Police Department

Dear Mr. Wunderlich:

This letter is your formal notification that the City of Houston has completed its review of all proposals submitted in response to the above referenced RFP. Please be advised that after careful examination and review of your proposal, consistent with the RFP, Wunderlich-Malec Systems cannot be given further consideration.

Porter Lee Corporation has complied with all the requirements of the RFP and was determined by the evaluation committee as the best respondent. Therefore, Porter Lee Corporation was recommended to City Council for the award of the Laboratory Information Management System for the City of Houston Police Department.

We appreciate your interest in wanting to do business with the City of Houston and encourage your continued interest in all future procurements.

If you should need additional information please contact me at 832-393-8723. Thank you!

Sincerely,

Joyce Hays  
Sr. Procurement Specialist  
City of Houston, Strategic Purchasing Division

cc: T23107 Solicitation File

*Partnering to better serve Houston*

Council Members: Toni Lawrence Jarvis Johnson Anne Clutterbuck Wanda Adams Mike Sullivan M.J. Khan, P.E. Pam Holm Adrian Garcia  
James Rodriguez Peter Brown Sue Lovell Melissa Noriega Ronald C. Green Jolanda "Jo" Jones Controller. Annise D. Parker



7

**From:** Jeff Braucher  
**Sent:** Friday, September 18, 2009 2:46 PM  
**To:** Simon Key; Mary Cook  
**Subject:** FW: RFP S37-T22904

**From:** Moore, Douglas - ARA [mailto:Douglas.Moore2@cityofhouston.net]  
**Sent:** Friday, September 18, 2009 2:36 PM  
**To:** Wells, Calvin - ARA; Jeff Braucher  
**Cc:** Hays, Joyce - ARA  
**Subject:** RE: RFP S37-T22904

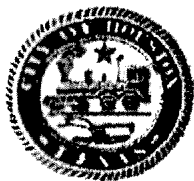
Good Afternoon All,

Per your request this solicitation was for the Laboratory Information Management System. This contract closed on June 6, 2008, please visit the below site to review all letters of clarification etc.  
[http://purchasing.houston.tx.gov/Bid\\_Display.aspx?id=T22904](http://purchasing.houston.tx.gov/Bid_Display.aspx?id=T22904)

This contract was awarded in July 2009 and by copy of this e-mail I am attaching a copy of the contract, RCA and Ordinance as they are all public record. Please be advised that we do not post evaluation summary since this was an RFP. However, Mr. Braucher may submit a formal open records request to Frank Carmody requesting any information pertaining to this solicitation, pending Legal department authorization. If you should need additional information please advise. Thanks and have a great weekend.

**Douglas Moore, Division Manager**

Administration & Regulatory Affairs Department  
Strategic Purchasing Division  
901 Bagby, City Hall Concourse Level  
Houston, Texas 77002



Direct: 832.393.8724  
General: 832.393.8800  
Email: douglas.moore2@cityofhouston.net

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---

**From:** Wells, Calvin - ARA  
**Sent:** Friday, September 18, 2009 3:33 PM  
**To:** 'Jeff Braucher'  
**Cc:** Moore, Douglas - ARA  
**Subject:** RE: RFP S37-T22904  
**Importance:** High

Thank you for your e-mail. By copy of this e-mail, I am requesting that Mr. Douglas Moore, Division Manager to research and advise you according to action taken relative to this solicitation. Ms. Joyce Hayes has been out of the office for two (2) weeks vacating out of the Country. Thank you for bringing this matter to my attention.

---

**From:** Jeff Braucher [mailto:braucherj@justicetrax.com]  
**Sent:** Friday, September 18, 2009 3:31 PM  
**To:** calvin.wells@cityofhouston.net  
**Cc:** SSSSQ@aol.com  
**Subject:** RFP S37-T22904

Re: RFP S37-T22904

Mr. Wells:

Thank you for taking the time to speak with me today.

Per our telephone conversation, could you update us on the status of RFP S37-T22904? Your website lists Joyce Hays as the purchasing contact for this RFP.

Our review of the County Purchasing website for RFP S37-T22904 does not show that a decision has been made or a contract has been awarded. Also, we were wondering when the tabulated results of the RFP decision and evaluation will be posted and available for public review.

You mentioned during our telephone conversation that if any mandatory items were changed on an RFP, that the procedure for the City was to issue a clarification letter/notice. My review of the City website for RFP 37-T22904 shows three clarification letters were issued on RFP S37-T22904. Is that all that have been issued?

Again, thank you for assisting us with this inquiry.

Jeff Braucher



JusticeTrax Inc.  
480-222-8906



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LAW OFFICES  
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FAX (202) 887-5137

Email: [sscsq@aol.com](mailto:sscsq@aol.com)

Direct: 202-872-4713

September 25, 2009

Via Federal Express

Mr. Calvin D. Wells  
The City of Houston Purchasing Agent  
City Hall Building Concourse Level Suite B-113  
901 Bagby Street, Houston, TX 77002

Arturo G. Michel, Esq.  
City Attorney  
City of Houston Legal Department  
P.O. Box 1562  
Houston, TX 77251-1562

*Re: Protest of Award to Porter Lee Corporation in RFP S37-T22904*

Gentlemen:

On behalf of JusticeTrax, Inc. and a JusticeTrax employee who is a property tax paying resident of the City of Houston, we submit this protest of the award in the above procurement to in an effort to avert an action for injunctive relief. JusticeTrax submitted an offer in response to the above-referenced RFP. The City never posted award at its website nor was JusticeTrax ever notified as an unsuccessful offeror. JusticeTrax became aware of this award only last week.

RFP S37-T22904 at Statement of Work, Task 4, contained the mandatory software capabilities requirements for implementation of the LIMS software on a Microsoft SQL Platform. Exhibit 1. The software and contract implementation offered by Porter Lee Corporation fails to meet that mandatory software capabilities/implementation requirement. Exhibit 2. Instead, the Porter Lee software is on an Oracle platform. The award to Porter Lee gives it additional time to meet the Microsoft SQL Platform implementation requirement, even though such additional time to meet mandatory implementation requirements of the RFP was not given to any other offeror in response to the RFP. My client (a) advises that it is most unlikely that Porter Lee could or would completely reprogram its software from implementation on an Oracle platform to implementation on a Microsoft SQL Platform, and (b) fully expects that the mandatory implementation requirement of the RFP would continue to be waived for the exclusive benefit of Porter Lee for the duration of the contract.

The RFP provided neither the City of Houston nor any offeror with authority to waive that mandatory software capabilities/implementation requirements. To the contrary, on May 28,

**SALE & QUINN, P.C.**

Via Federal Express

Mr. Calvin Wells  
Arturo G. Michel, Esq.  
September 25, 2009  
Page 2

2008, the Strategic Purchasing Division of the Office of The City of Houston Purchasing Agent issued Letter of Clarification 1 containing Clarification Question and Answer 12.0 that expressly confirmed the mandatory nature of this RFP requirement as follows:

12.0 I s the MS SQL Server mandatory for the database platform.  
**ANSWER: Yes this is mandatory**

Exhibit 3. The Strategic Purchasing Division subsequently issued Letter of Clarification 2 and Letter of Clarification 3, but neither of those letters changed the mandatory RFP requirement for the implementation of the LIMS software on a Microsoft SQL Platform.

JusticeTrax LIMS software meets the Microsoft SQL Platform capabilities/ implementation requirement and all other of the mandatory requirements of the RFP.

Because Porter Lee Corporation failed to meet Microsoft SQL Platform implementation requirement of the RFP, Porter Lee could not be determined "to be reasonably qualified for the award of the contract" as required by V.T.C.A., Local Government Code § 252.021(b), and City's award to Porter-Lee violates V.T.C.A., Local Government Code § 252.021(b). Moreover, in contravention of V.T.C.A., Local Government Code § 252.021(b), JusticeTrax was not "treated fairly and equally with respect to any opportunity for discussion and revision of proposals." The City conducted such discussions with Porter-Lee alone and in effect amended the mandatory software capabilities/implementation requirements of the Statement of Work for the exclusive benefit of Porter Lee without allowing JusticeTrax to amend or to supplement its proposal based on the amended Statement of Work.

During the exclusive discussions with Porter Lee, the City gave Porter Lee at least until July 31, 2010 to meet the mandatory Microsoft SQL Platform requirement of the RFP for contract implementation that JusticeTrax was required to meet at the time of its offer. JusticeTrax was totally denied an opportunity to respond to this amendment of the mandatory software capabilities/implementation requirements of the Statement of Work in the RFP.

For violation of V.T.C.A., Local Government Code § 252.021(b), the City is subject to entry of injunction voiding contract award as follows:

If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by:

(1) any property tax paying resident of the municipality...

V.T.C.A., Local Government Code § 252.061. In ordering entry of an injunction in *Cantu v. Rodriguez*, 376 S.W.2d 70 (Tex. Civ. App. 1964), the court cited *Adams v. McGill*, 146 S.W.2d

SALE & QUINN, P.C.

Via Federal Express

Mr. Calvin Wells  
Arturo G. Michel, Esq.  
September 25, 2009  
Page 3

332 (Tex. Civ. App. 1940), *reh'g denied* (1941), as a case where the court had jurisdiction (as in *Cantu*) even though "there the proposed contract had been submitted for competitive bids and proper notice published." A court likewise would have jurisdiction here in an injunction action brought by a "property tax paying resident of the municipality" of Houston.

We are not aware of any grievance or protest procedures for a procurement conducted by your office. The Texas City Management Association publishes a "Handbook for City Administrators in Smaller Texas Cities (2002)." Chapter 4 of the Handbook, entitled "Public Purchasing and Materials Management," states that following for municipal procurement in Texas:

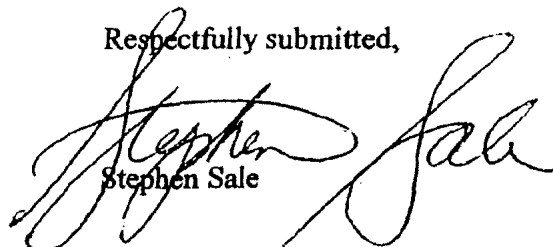
It is a recommended practice for a municipal purchasing operation to have a formal grievance or complaint process. It should instruct a supplier or any other interested party, the steps on how to file a protest or complaint of a procurement action. ... If the aggrieved party wishes to appeal the Purchasing Agent's determination, the appeals process should be spelled out.

Exhibit 4, Handbook for City Administrators in Smaller Texas Cities at 4-8. If the City of Houston has procedures as recommended above, please provide me with a copy or indicate a location where I can find those procedures.

JusticeTrax regrets that it was not able to file this protest sooner. Consistent with "best practices" principles of transparency in government and public procurement, Ms. Joyce Hays of your office assured JusticeTrax on October 17, 2008, that "[i]f your company is not selected for contract negotiations when an award has been made by Council, you will be notified who the selected vendor is." Notwithstanding that assurance of notice to JusticeTrax of award in this procurement, your office failed either to notify JusticeTrax or to post notice of award at the internet website of your office. Because your office withheld notice of award by direct notification to JusticeTrax or website publication, JusticeTrax was unable to bring this protest before now.

JusticeTrax demands that the City cancel the award to Porter-Lee as unlawfully awarded due to its failure to meet Microsoft SQL Platform implementation requirement of the RFP, and to make award of the contract to JusticeTrax as a satisfying all mandatory requirements of the RFP. We request that you advise the undersigned within ten days of whether this protest will be entertained.

Respectfully submitted,

  
Stephen Sale

REQ#	REQUIREMENT (See RFP Section for more detail)	RFP Section	CODE	YES, Y/C/A, NO	REF	Comments
	Key	M				<p>The Requirement Matrix is intended to summarize the functionality desired in the LIMS as stated in the RFP. A lack of ability to meet each of the functions indicated may not preclude a vendor from consideration during the selection process.</p>
	MANDATORY	HD				
	HIGHLY DESIRABLE	D				
<b>INSTALLATION, TRAINING AND SUPPORT</b>						
1	The proposal shall include a pre-installation owner checklist that covers hardware, software and staffing levels that the HPD must provide.	II.A	M			
2	The selected LIMS Proposer or its designated representative shall perform the initial installation of the LIMS including configuration, data conversion and customization tasks.	II.A	M			
3	Proposers shall provide, as part of their proposal, a path or sequence of clients, including a timetable, for the completion of this effort.	II.A	M			
4	This discussion shall address the various worksheets, reporting formats, and other customized documentation required by the laboratory.	II.A	M			
<b>TRAINING</b>						
5	The Proposer shall make recommendations for on-site training and / or propose facilities for HPD personnel to install, configure, use, and maintain the new LIMS, based on the requirements stated in this document.	II.B	M			
6	Training shall be for approximately 130 personnel and shall include instruction for any 3rd-party software integrated with the LIMS, for configuration and for end-user purposes.	II.B	M			
7	The Proposer shall provide training to System Administration users at the time of initial installation.	II.B	M			
8	The Proposer shall provide end-user training at a time mutually agreed upon by the Proposer and HPD	II.B	M			
9	Training provided to System Administrators shall include system installation, configuration, user interface, instrument integration, data retrieval, reporting, data backup, and maintenance.	II.B	M			
10	End User training shall include all LIMS tasks and functions related to the End User's job duties including uploading instrument results.	II.B	M			
11	The proposal shall include a detailed discussion of how LIMS training is to be addressed.	II.B	M			
12	The discussion shall include a list of course titles, course abstracts, a description of the target audience, and typical class lengths.	II.B	M			

REVISED MAY 23, 2008

REQ#	REQUIREMENT (See RFP Section for more detail)	RFP Section	CODE	YES, V/C, A, NO	REF	Comments
26	To support COOP, the LIMS licensing shall allow HPD to mottle the Production LIMS application to different servers and periodically login and verify that it is functioning correctly	II.F	M			
27	The LIMS shall utilize MS SQL Server 2005. The LIMS shall use this database product for all LIMS managed information and configurations.	II.F.1	M			
28	The LIMS server(s) shall use the MS Windows Server 2003 operating system.	II.F.2	M			
29	HPD utilizes HP Servers with abuse DL385 operation with dual CPU system. The Proposer should specify a server system that meets the goals of the project utilizing HP servers	II.F.2	HD			
30	The LIMS shall utilize the MS Windows Server 2003 operating system and compatible Internet service applications.	II.F.3	M			
31	The LIMS Proposer shall provide ActiveX, Java or other components not commonly loaded and needed by the selected LIMS.	II.F.3	M			
32	The LIMS shall support use of MS Office 2003 Professional and Adobe Acrobat 7.0 Professional or later.	II.F.4	M			
33	The LIMS client component (if so required) shall run on the standard HPD administrative computers using the MS Windows XP operating system.	II.F.4	M			
34	The LIMS client should support updates using MS Systems Management Server 2003, which will be performed by HPD TSD.	II.F.4	HD			
35	LIMS web components shall use MS Internet Explorer version 6.0 or later for all browser-based access.	II.F.4	M			
36	The Proposer shall test and certify LIMS Workstations operate while actively running HPD Security and Networking components including but not limited to: Nollie Client Ilerion X.X, Nollie Zernworks Application Manager, Cisco Security Agent, and McAfee EPO Anti-Illius applications.	II.F.4	M			
37	The LIMS shall use TCP/IP addressing for communication between all LIMS components, workstations, and with external systems.	II.F.4	M			
38	The TCP/IP Addresses shall be dynamic and issued through existing DHCP Servers in HPD network attached equipment.	II.F.4	M			
	Network Services					

REVISED MAY 23, 2008





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Direct: 202-872-4713

October 2, 2009

Jo Wiginton, Esq.  
Contracts Division Chief  
City of Houston Legal Department  
P. O. Box 1562  
Houston, Texas  
77251-1562

*Re: JusticeTrax, Inc., Protest of Award to Porter Lee Corporation in RFP S37-T22904*

Dear Ms. Wiginton:

Neither I nor my former colleagues at Bracewell & Giuliani ("Bracewell & Patterson" when I was employed there) were aware of the consideration of protests by the Bid Irregularities Committee, but we certainly welcome your offer of expedited administrative review. The City Purchasing Agent provided my client JusticeTrax, Inc., with a copy of V.T.C.A., Local Government Code Chapter 252, thereby indicating to us that an injunctive action under § 252.061 would provide the recourse for an award violating the requirements (1) that the awarded contractor be "reasonably qualified for the award of the contract" and (2) that offerors "be treated fairly and equally with respect to any opportunity for discussion and revision of proposals" as required by V.T.C.A., Local Government Code § 252.042(b). We assume that these principles would likewise apply to consideration by your Bid Irregularities Committee.

It is our position that the City's discussions exclusively with and award to offeror Porter Lee Corporation violated V.T.C.A., Local Government Code §§ 252.042(b), 252.061, because Porter Lee fails to meet the mandatory Microsoft SLQ Platform implementation requirement of RFP S37-T22904. The City could not lawfully enter into discussions with and make award to Porter Lee under the RFP based on its noncompliant offer, while failing to enter into discussions or to make award to JusticeTrax, Inc., based on its fully compliant offer.

Further, we note that substantial federal funding is being provided for performance of the contract awarded under this RFP. While the terms of the federal grant have not been provided to us, federal grants generally require fair and open competition in a federal grant-funded procurement. It is our position that, under Federal Government principles of fair and open competition, the City should have rejected the offer of Porter Lee and should have made award to compliant offeror JusticeTrax, Inc.

SALE & QUINN, P.C.

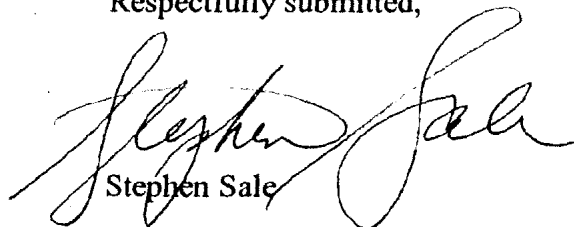
Jo Wiginton, Esq.  
October 2, 2009  
Page 2

In the application of federal principles of fair and open competition, offerors are properly excluded from discussions for failure to meet a mandatory nonnegotiable specification. *See Radix II, Inc.*, Comp. Gen. Dec. B-184913, 76-1 CPD ¶ 37 (1976). Indeed, under federal procurement principles, similarly situated offerors cannot lawfully be treated differently. *Isometrics, Inc. v. United States*, 5 Ct. Cl. 420 (1984); *RMI, Inc.*, Comp. Gen. Dec. B-203652, 83-1 CPD ¶ 423 (1983), *reconsid. denied*, 84-1 CPD ¶ 630 (1984). The City's action here is much worse because it held discussions with and made award to Porter Lee Corporation as the offeror that failed to meet the mandatory nonnegotiable specification of implementation of the LIMS on a Microsoft SQL Platform, even while the City failed to hold discussions with or make award to compliant offeror JusticeTrax, Inc. In sum, the City's award to Porter Lee, without either actual express amendment of the specifications or discussions with JusticeTrax as a compliant offeror, violated all principles of fair and open competition.

Attached is representative copy of presentation on behalf of JusticeTrax to each of the members of the City Council, which along with this letter is hereby incorporated by reference into our protest. I will confer with my client whether they seek to present any further materials in support of this protest and, if so, we will provide the same in next few days to permit consideration next week by the Bid Irregularities Committee.

Thank you for your consideration.

Respectfully submitted,



Stephen Sale



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Email: sscsq@aol.com

Direct: 202-872-4713

October 7, 2009

Via Email [Jo.Wiginton@cityofhouston.net](mailto:Jo.Wiginton@cityofhouston.net)

Jo Wiginton, Esq.  
Contracts Division Chief  
City of Houston Legal Department  
P. O. Box 1562  
Houston, TX 77251-1562

*Re: Further Materials of JusticeTrax, Inc., in Protest of Award under RFP S37-T22904*

Dear Ms. Wiginton:

On behalf of our client JusticeTrax, Inc., we submit this correspondence in response to the invitation to provide any further materials supporting our protest for consideration by the Bid Irregularities Committee.

1. The City's Violation of the Mandatory RFP Specifications and Requirements.

First and foremost, the offer by Porter Lee Corporation was not qualified for consideration, let alone award, by the City because Porter Lee failed to meet the "supermandatory" requirement of RFP S37-T22904 of implementation of the offered laboratory information management system (LIMS) on a Microsoft SQL Platform/server, which City made a mandatory RFP requirement in the strongest possible terms. Besides the mandatory Microsoft SQL server specification in the previously submitted copy of Requirement 27 of the Specifications in the City's RFP (Exhibit 1), and the copy of Question and Answer 12 in the City's Letter of Clarification to offerors (Exhibit 3), the City included further requirements and specifications for an SQL Microsoft server in numerous locations throughout the RFP. For example, the Statement of Work sets forth the following mandatory requirements for offerors:

**4.6 IT Requirements**

This section describes LIMS software, hardware, and related infrastructure resources necessary to support the current future HPD enterprise.

- 4.6.1 The LIMS shall operate within the HPD Information Technologies infrastructure standards managed by HPD Technology Services Division (TSD) and work cooperatively with many HPD information systems. ...

SALE & QUINN, P.C.

Jo Wiginton, Esq.  
October 7, 2009  
Page 2

4.6.2 ... The HPD server environment utilizes ... *MS SQL Server 2005*, and other specialized applications. ...

**NOTE:** Where a software application/system version is specified in this document it is meant to state the current working version in the Houston HPD infrastructure. ... The proposed LIMS shall not require HPD TSD to upgrade to a more recent version of the application, nor shall it prevent HPD TSD from upgrading said application to the currently available release.

4.6.3.1 DATABASE PLATFORMS

The LIMS shall utilize the *MS SQL Server 2005*. The LIMS shall use this database product for all LIMS managed information and configurations.

\* \* \*

4.7 LIMS DATABASE CHANGES

4.7.1 ... Tools used to configure Proposer-provided tables and user interfaces provided by the user shall include the ability to expose new database objects ..., views created in *MS SQL*...

Exhibit 5, RFP S37-T22904, "Statement of Work" at 23-24, 27 (emphasis added).<sup>1</sup>

In the RFP, the City states the following mandatory minimum offeror response requirements:

6.2 ... Instructions for completing the Requirements Matrix are as follows:

\* \* \*

6.2.4 Column D: Priority Code

6.2.4.1 Requirements in this column are classified as:

**MANDATORY (M)** - These requirements *must* be provided  
**HIGHLY DESIRABLE (HD)** - These requirements are important  
**DESIRABLE (D)** - These requirements are desirable

\* \* \*

6.3 All requirements and sub-requirements must be answered. Providing detail how your product meets this requirement will enable the evaluation committee to best evaluate your product's capabilities. ...

\* \* \*

6.7 ... Note: **EXHIBIT XV** is only a summary list of requirements. The proposed system must meet all required technical specifications as defined in the RFP. Interpretation of the Proposers fulfillment of the specific

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<sup>1</sup> Exhibit numbering continues from those exhibits previously submitted.

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October 7, 2009  
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requirements of this RFP will be determined by the requirements set forth in this RFP and all associated requirements, not the Requirements Matrix.

Exhibit 5, RFP S37-T22904, "Statement of Work" at 34-35 (emphasis in original).

The City's RFP specified that an offeror's response to the above-quoted requirements would be one of the highest evaluation criteria:

Objective Evaluation of the Offeror's Proposal -- Evaluation of Responses to the Requirements Matrix.

Exhibit 5, RFP S37-T22904, "Evaluation and Selection Process" at 39.

Notwithstanding the clear above-stated "supermandatory" Microsoft SQL server specifications and requirements, the City made award to Porter Lee for LIMS implemented on the noncompliant Oracle platform. As a result, the Statement of Work in the City's Agreement with Porter Lee repeatedly deviates materially from the mandatory technical requirements of the RFP's Statement of Work. The Acceptance Standards of the City's contract with Porter Lee Corporation provide as follows:

... 2. Software installation providing the required software and server for the initial implementation using Oracle is the initial system in not operating on a Microsoft SQL Platform.

Exhibit 6, Agreement, "Statement of Work," at 24-25. Because the meaning of the above contract provision is anything but obvious, the City's intent to obfuscate seems clear.

Fair procurement principles require that the contract Statement of Work mirror the RFP's Statement of Work. In this case, the remainder of the contract's newly written Statement of Work demonstrates the City's decision and intent to discard its own mandatory specifications and requirements rather than rejecting Porter Lee's offer as the City was required to do by its own RFP. The newly written Configuration requirements in the Statement of Work of the City's contract with Porter Lee Corporation provide as follows:

... b. Installation and testing of the LIMS Oracle and/or Microsoft SQL software...

Exhibit 6, Agreement, "Statement of Work," at 25.

The newly written Database Migration requirements in the Statement of Work of the City's contract with Porter Lee Corporation provide as follows:

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4. Database Migration - Installation and testing of the LIMS Oracle and/or Microsoft SQL software.

Exhibit 6, Agreement, "Statement of Work," at 25.

The newly written Implementation and Customization requirements in the Statement of Work of the City's Agreement with Porter Lee Corporation provide as follows:

Task 4. Implementation and Customization: Conversion to SQL (if required) and Records Management Interface (OLO)

\* \* \*

3. If the system was not originally implemented on a Microsoft SQL Platform, at the sole discretion of the Director, if the contractor fails to complete conversion of data from the Oracle server to the Microsoft server by July 31<sup>st</sup> 2010, the City of Houston will make demand on the performance bond executed by the Contractor to recoup fees paid to the Contractor and recover expenses incurred by the City for the project up to the date of rejection of the system. Contractor shall perform the conversion in the client server application and any web applications. ...

Exhibit 6, Agreement, "Statement of Work" at 26-27. Although the City required JusticeTrax and all other offerors *except* Porter Lee to offer and to implement LIMS on a Microsoft SQL server, the newly written implementation standards of the Statement of Work in the City's Agreement with Porter Lee give the City total discretion to allow Porter Lee to continue to the noncompliant implementation of LIMS on Oracle, rather than on the mandatory Microsoft SQL Platform.

Because the City accepted Porter Lee's noncompliant LIMS implemented on Oracle, the Statement of Work of the City's Agreement with Porter Lee also has a newly written second set of "Acceptance Standards" in the event Porter Lee were ever to convert to implementation on the mandatory Microsoft SQL Platform. Thus, for the exclusive benefit of noncompliant offeror Porter Lee, the *City would now provide for two data conversions within one year*: first, from the City's current system to Porter Lee's Oracle implementation; and, second, in the unlikely event that by July 1, 2010, Porter Lee proffered demonstrated LIMS software implemented on the Microsoft SQL server, then from the Oracle implementation to the Microsoft SQL server. The Statement of Work in the RFP gave no hint of this performance.

The City's newly written acceptance standards in the Statement of Work for Porter Lee Agreement, to allow a second implementation and data conversion by Porter Lee from the noncompliant Oracle platform to the compliant Microsoft SQL Platform, include the following:

2. Customization - Interface to OLO functional for reports and transfer supplements. Successful conversion to SQL using side by side comparisons of reports and data.

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3. Conversion to SQL (if applicable)
  - a. Installation, conversion and testing of the LIMS for Microsoft SQL Server.

Exhibit 6, Agreement, "Statement of Work," at 27.

The newly written Statement of Work in the Porter Lee Agreement also imposes the following newly created responsibilities for the City that, of course, were nowhere to be found in the mandatory specifications of the RFP:

**CITY'S RESPONSIBILITIES**

**System Requirements**

**1. Oracle Database Server**

Should the initial system be based on an Oracle platform, HPD will provide protected power, rack space, network connectivity and network services (DNS, DHCP, etc.) for the database server. The Oracle database server provided by Contractor must conform to HPD hardware/software standards as defined in the attached hardware/software standards... . The server is to be joined to the HPDWINAD domain with the assistance/cooperation of HPD Technology Service personnel and will use Microsoft Active Directory... .

Contractor will specify disk space estimate for five years. ...

**2. Microsoft SQL Database Server**

HPD will provide protected power, rack space, network connectivity and network services (DNS, DHCP, etc.) and an SQL server at the time the system is migrated from Oracle. ...

Exhibit 6, Agreement, "Statement of Work," at 29-30.

Demonstrating that the conversion from noncompliant Oracle to the mandatory Microsoft SQL Platform is not likely to occur, the payment schedule in the Agreement requires the City to pay Porter Lee the base payment of \$561,550 in 11 installments *before "Phase II," which is "Sequel System Conversion," for which no payment is made.* Exhibit 7, Exhibit "B" to Agreement, "Project Phases, Deliverables and Costs." In other words, the City has no holdback in its contract payments to Porter Lee for Microsoft SQL Platform conversion. Thus, City would pay Porter Lee \$561,550 for the noncompliant Oracle implementation, but the City would pay Porter Lee nothing if it were to convert from Oracle to the compliant Microsoft SQL Platform.

**2. The City's Violation of Federal Grant Requirements.**

The City's Request for Council Action indicates that the Porter Lee Agreement would be funded in the amount of \$587,315 by Federal funds. Although the City Purchasing Agent provided JusticeTrax only with the provision of the Texas Municipal Code providing for judicial



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review in an injunctive action, Department of Justice (DOJ) regulations in Title 28 Code of Federal Regulations, Part 66, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," require as follows that DOJ grantees and subgrantees have established procurement standards that include defined protest procedures:

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

28 C.F.R. § 66.36(b)(12). The City has never provided JusticeTrax with any protest procedures. Indeed, the City even failed to give notice to JusticeTrax of the award to Porter Lee notwithstanding the City's prior commitment to provide such notice. The City's failure to adopt protest procedures or to decide a protest in accordance with those procedures gives rise to a protest directly to the Department of Justice by an protesting offeror such as JusticeTrax. 28 C.F.R. § 66.36(b)(12)(ii).

In addition to the procedural safeguards ensuring the availability of a protest in a procurement funded by a DOJ grant, DOJ's regulations also impose substantive requirements on the City's procurement as a DOJ grantee or subgrantee. DOJ regulations of mandatory application require that its grantee and subgrantee "procurements conform to applicable Federal law and the standards identified in this section." 28 C.F.R. § 66.36(b)(1). DOJ regulations also require that "[a]ll procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §66.36." 28 C.F.R. § 66.36(c)(1). Similarly, it is the position of JusticeTrax that the City's award to Porter Lee, in violation of the City's own mandatory specifications and requirements, is an "arbitrary action in the procurement process" in violation of 28 C.F.R. § 66.36(c)(1)(vii).

As the following applicable precedent demonstrate, the City's award to offeror Porter Lee despite its failure to meet the fundamental minimum criterion for award of LIMS implementation on a Microsoft SQL Platform violates all Federal procurement standards of Federal full and open competition. Under Federal procurement principles, an offeror is properly excluded from negotiations if its proposal is technically unacceptable. Exhibit 8, *Radix II, Inc.*, Comp. Gen. Dec. B-184913, 76-1 CPD ¶ 37 (1976). Porter Lee thus should have been excluded from negotiations and award.

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The Federal principles of fair and open competition, requiring that a contracting government agency equally apply its technical standards and evaluation criteria, are stated as follows:

An evaluation does not have a reasonable basis unless it is founded on the RFP evaluation criteria which offerors were told would be used in evaluating their proposals. It is fundamental that offerors must be treated equally and are entitled to know and rely on the evaluation criteria which are to be used in order to intelligently frame their proposals. ...

*In evaluating expected performance, agencies must apply technical standards equally.*

Exhibit 9, *RMI, Inc.*, Comp. Gen. Dec. B-203652, 83-1 CPD ¶ 423 (1983), *reconsid. denied*, 84-1 CPD ¶ 630 (1984) (emphasis added), *citing Signatron, Inc.*, 54 Comp. Gen. 530 (1974), 74-2 CPD ¶ 386; *Motorola Inc., Communications Group*, B-200822 (June 22, 1981), 81-1 CPD ¶ 514; *accord, Isometrics, Inc. v. United States*, 5 Ct. Cl. 420 (1984).

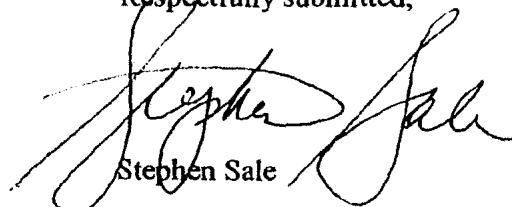
The above-stated Federal procurement principals, requiring equal application of evaluation criteria and technical standards, made it incumbent upon the City to reject the offer of Porter Lee due its failure to meet the mandatory technical specifications and requirements of the RFP for LIMS implementation on a Microsoft SQL Platform. Because Porter Lee's proposal did not meet the mandatory Microsoft SQL Platform requirement, the City's contract award to Porter Lee represented a grossly unequal of application technical standards and evaluation criteria.

The failure of the City to meet its commitment to notify JusticeTrax, Inc., of contract award is further demonstration of the City's awareness that its award violated the terms of its own procurement and all applicable principles of law.

JusticeTrax urges the Committee to find that the City should (1) void the contract with Porter Lee due to its failure to meet the mandatory technical requirements and specifications of RFP S37-T22904 for LIMS implementation on a Microsoft SQL Platform, and (2) make award to JusticeTrax, Inc., based on its fully compliant offer.

Thank you once more for your consideration.

Respectfully submitted,



Stephen Sale



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October 13, 2009

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Houston, TX 77251-1562

*Re: Further Materials of JusticeTrax, Inc., in Protest of Award under RFP S37-T22904*

Dear Ms. Wiginton:

On behalf of our client JusticeTrax, Inc., we submitted a "protest" on September 25, 2009, that we supplemented, in response to your correspondence, by further materials on October 2 and 7, 2009 and by this letter, against award by the City of Houston to Porter Lee Corporation under RFP S37-T22904 (RFP). From the outset, JusticeTrax has been disadvantaged by the fact that the City of Houston has neither cited nor provided bid protest procedures that the City has adopted and implemented to comply with the following provisions of 28 C.F.R. § 66.36(b)(12) in a procurement funded with a grant from the United States Department of Justice:

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. ...

We request a copy of the City of Houston's protest procedures. Because the City Purchasing Agent supplied my client only with Chapter 252 of the Texas Local Government Code providing for a Houston taxpayer's an injunctive action under V.T.C.A., Local Government Code § 252.061, and because protest procedures likewise were not provided by your office, we are most concerned that the City of Houston did not adopt protest procedures as required by 28 C.F.R. § 66.36(b)(12). In the absence of City of Houston protest procedures governing such a procurement that is funded by the Justice Department, our client could be required to bring our protest to the Department of Justice, which would be done forthwith.

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Additionally, we would be remiss if we did not provide you further materials regarding the City's material noncompliance with the requirements of its RFP in its award to Porter Lee Corporation. Offerors were required to provide references on the laboratory information management system (LIMS) responsive to the mandatory requirements of the RFP as follows:

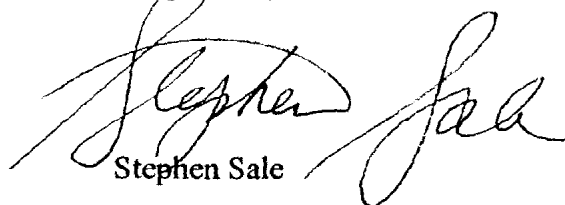
The Proposer shall also provide a list of corporate and technical reference contacts for all Systems implemented within the past three years *utilizing the same software that is proposed for the HPD LIMS*. The reference shall include a synopsis of work provided to each referenced client and include costs, start and completion dates and shall identify the implementation personnel (if any) being proposed for the HPD who participated in the referenced task. The HPD Source Selection Team reserves the right to contact previous Proposer customers not specifically listed in their proposal.

RFP at 37, Statement of Work ¶ 4.2 (emphasis in original). "DATABASE PLATFORMS" is the first of the RFP's separately stated "IT Requirements" and that it specifies that "[t]he LIMS shall utilize MS SQL Server 2005" [RFP at 23-24, Statement of Work §§ 4.6, 4.6.3 (emphasis in original)]. Because Porter Lee Corporation failed to meet the mandatory requirement that "LIMS shall utilize MS SQL Server 2005," Porter Lee by definition failed to submit a single reference for the implementation of LIMS on a Microsoft SQL Server 2005.

Finally, for a LIMS that failed to meet the City's minimum mandatory specifications and requirements in the RFP, the City of Houston made award to Porter Lee for its *non-compliant* LIMS in the amount of \$773,390, which includes a basic LIMS for \$561,550, add-ons of \$59,500, and five-year maintenance of \$153,340. JusticeTrax, Inc., which for many years has successfully implemented and operated its own LIMS in the Crime Laboratory of Harris County, submitted a fully *compliant* LIMS offer in the amount of \$530,403 with Microsoft SQL Server 2005 implementation for \$270,000, 1,000 hours of LIMS customization at a cost of \$150,000, one year of annual maintenance at \$50,469 and add-ons of \$59,934. Even when four additional years of JusticeTrax maintenance are added at a cost of \$201,876, the total cost of fully compliant implementation and five-year performance by JusticeTrax would be \$732,279, which is \$41,111 less than Porter Lee's accepted noncompliant offer.

Pending the disposition of this protest (including any superseding protest to the United States Department of Justice), we hereby request that your Office suspend, or direct suspension of, contract implementation and performance by Porter Lee Corporation and that your Office advise the undersigned of the disposition of this suspension request.

Respectfully submitted,

  
Stephen Sale



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October 20, 2009

Jo Wiginton, Esq.  
Contracts Division Chief  
City of Houston Legal Department  
P. O. Box 1562  
Houston, TX 77251-1562

*Re: Final Submission of JusticeTrax, Inc., in Protest of Award under RFP S37-T22904*

Dear Ms. Wiginton:

This responds to your invitation of October 16, 2009, for a final submission on behalf of our client JusticeTrax, Inc., to the Bid Irregularities Committee. JusticeTrax, Inc., submits that award to Porter Lee Corporation by the City of Houston in response to RFP S37-T22904 is contrary to law as follows:

- (1) The City of Houston failed to adhere to its own mandatory specifications and requirements for implementation of the laboratory information management system (LIMS) on a Microsoft SQL Platform. Exhibit 1, RFP S37-T22904 at Statement of Work, Task 4; Exhibit 2, Porter Lee Corporation-City of Houston Agreement; Exhibit 3, Questions and Answers at 12; Exhibit 5, RFP S37-T22904, "Statement of Work" at 23-24, ¶¶ 4.6.1-4.6.3.1; 27 ¶ 4.7.1; 34-35, ¶¶ 6.2, 6.2.4, 6.3, 6.7; 39, "Evaluation and Selection Process."
- (2) In violation of its own mandatory specifications and requirements, the City of Houston allowed Porter Lee Corporation to implement the laboratory information management system (LIMS) on an Oracle Platform, with possible data conversion within the next year, at the City's sole discretion, to the mandatory Microsoft SQL Platform, even though JusticeTrax, Inc., and every other offeror was required to offer and to install and to operate LIMS Microsoft SQL Platform at the time of contract implementation. Exhibit 6, Agreement, "Statement of Work," at 24-27
- (3) The City of Houston violated its own mandatory specifications and requirements, that each offeror submit technical references for the offered implementation on a LIMS Microsoft SQL Platform, by allowing Porter Lee Corporation to submit references for LIMS implemented on a non-compliant Oracle Platform. RFP at 23-24, Statement of Work §§ 4.6, 4.6.3; RFP at 37, Statement of Work ¶ 4.2.

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- (4) The City of Houston violated the procedures of its evaluation and selection criteria by its failure to conduct negotiations with JusticeTrax, Inc. as a compliant offeror, and by conducting negotiations with non-compliant offeror Porter Lee Corporation. RFP at 39, "Evaluation and Selection Process." The City's cognizance of this violation is demonstrated by its concomitant failure to notify JusticeTrax, Inc., of award under this RFP, notwithstanding the City's prior commitment to give JusticeTrax notice of such award.
- (5) As a Department of Justice grantee, the City violated the legal requirement that "[g]rantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement." 28 C.F.R. § 66.36(b)(8). Porter Lee Corporation admittedly cannot perform successfully under the mandatory term and condition of the procurement for implementation of the LIMS on a Microsoft SQL Platform. The City acted arbitrarily, unfairly and in violation of law by selecting offeror Porter Lee Corporation that failed to meet the most basic technical requirements and specifications and other terms and conditions of the RFP, and by rejecting the fully compliant offer of JusticeTrax, Inc.
- (6) The City of Houston has failed to comply with Department of Justice grant requirements by its failure to implement the Federal legal requirement that "[g]rantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements," 28 C.F.R. § 66.36(b)(12), because the City has failed to adopt, to implement, or to provide JusticeTrax, Inc., with notice or copies of such protest procedures that would allow protest resolution. Indeed, communications from the Committee have noted that its recommendation is advisory, thereby demonstrating that the City has failed to adopt protest procedures allowing actual protest resolution.
- (7) As a Department of Justice grantee, the City's "procurements [must] conform to applicable Federal law and the standards identified in this," 28 C.F.R. § 66.36(c)(1), and the City was precluded from "arbitrary action in the procurement process." 28 C.F.R. § 66.36(c)(1)(vii). Under Federal law, Porter Lee Corporation had to be excluded from negotiations because its proposal is technically unacceptable. See Exhibit 8, *Radix II, Inc.*, Comp. Gen. Dec. B-184913, 76-1 CPD ¶ 37 (1976). The City likewise violated Federal law by its failure to "apply technical standards equally." See Exhibit 9, *RMI, Inc.*, Comp. Gen. Dec. B-203652, 83-1 CPD ¶ 423 (1983), reconsid. denied, 84-1 CPD ¶ 630 (1984) (emphasis added), citing *Signatron, Inc.*, 54 Comp. Gen. 530 (1974), 74-2 CPD ¶ 386; *Motorola Inc., Communications Group*, B-200822 (June 22, 1981), 81-1 CPD ¶ 514; accord, *Isometrics, Inc. v. United States*, 5 Ct. Cl. 420 (1984).



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Jo Wiginton, Esq.  
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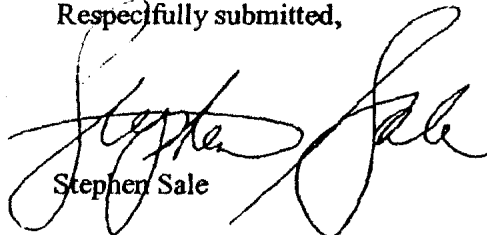
- (8) The City was required by law to make award to JusticeTrax, Inc. as a fully compliant offeror based on its proposed price that was \$41,111 less than Porter Lee's accepted noncompliant offer.

JusticeTrax, Inc., incorporates by reference into this final submission its initial protest of September 25, 2009, its correspondence and further materials submitted on October 2, 7 and 13, 2009, all exhibits thereto and authorities cited therein against award by the City of Houston to Porter Lee Corporation under RFP S37-T22904 (RFP).

JusticeTrax, Inc., requests that the Committee direct the City (a) to avoid the contract with Porter Lee Corporation as awarded in violation of law and therefore *ultra vires* to the City's authority, and (b) to direct award to compliant offeror JusticeTrax, Inc.

Pursuant to 28 C.F.R. § 66.36(b)(12), JusticeTrax, Inc., hereby preserves all rights to protest to the United States Department of Justice the manifest violations of law in this procurement if the Committee does not or finds that it cannot grant this protest by directing cancellation of the award to Porter Lee Corporation and the making of award to JusticeTrax, Inc.

Respectfully submitted,



Stephen Sale



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October 26, 2009

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Houston, TX 77251-1562

*Re: Notification of Decision of JusticeTrax, Inc., Protest of Award under RFP S37-T22904*

Dear Ms. Wiginton:

In the JusticeTrax, Inc., protest of the City of Houston contract award under RFP S37-T22904 to Porter Lee Corporation, we have not been provided with "protest procedures to handle and resolve disputes relating to their procurements" or procedures to ensure that the City of Houston "shall in all instances disclose information regarding the protest to the awarding agency" as mandated by the United States Department of Justice in 28 C.F.R. § 66.36(b)(12). Because JusticeTrax, Inc., was not advised of award to Porter Lee Corporation (notwithstanding assurances by the Office of the City Purchasing Agent that JusticeTrax, Inc., would be notified of award), our client is understandably concerned that your client or your office could decide not to notify us of any disposition of our client's protest.

Pursuant to 28 C.F.R. § 66.36(b)(12), "[a] protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency." We still do not know whether any administrative remedy is available from the City of Houston, as you have indicated that decisions of the Bid Irregularities Committee are advisory. Following inquiry by JusticeTrax, Inc., of the award to the Porter Lee Corporation, the Office of the City Purchasing Agent provided my client with copy of V.T.C.A., Local Government Code § 252.061, which provides only for a taxpayer injunctive action to void a contract awarded in violation of the Chapter 252 of the Texas Local Government Code. I consulted my former colleagues at Bracewell & Giuliani and found that they are not aware of any administrative protest remedy available from the City of Houston in connection with a federally funded procurement. This leads us to believe that the City of Houston does not have "protest procedures to handle and resolve disputes relating to their procurements," and thus does not have any "administrative remedy" that could be exhausted.

JusticeTrax, Inc., is willing to discuss with you settlement of this protest. If we do not receive any response to our protest within 10 working days of this correspondence, however, we would be required to bring our protest before the Department of Justice on the grounds of

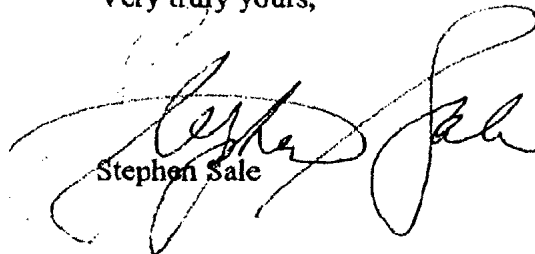
**SALE & QUINN, P.C.**

Jo Wiginton, Esq.  
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Page 2

constructive denial, lack of administrative remedy available from the City of Houston and all violations of law cited in our earlier correspondence in connection with the award to Porter Lee Corporation.

Please call me if you would like to discuss settlement or if you have any questions regarding this or any earlier correspondence on behalf of our client JusticeTrax, Inc.

Very truly yours,



Stephen Sale



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November 19, 2009

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*Re: JusticeTrax, Inc., Protest of Award under RFP S37-T22904*

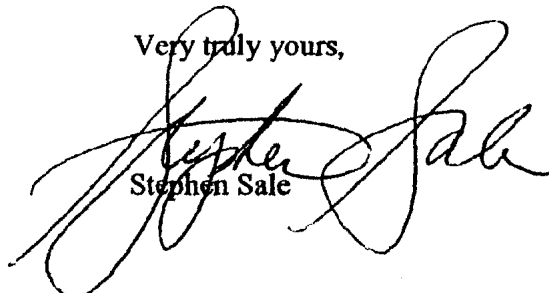
Dear Mr. Michel and Ms. Wiginton:

We comprehensively presented in good faith the protest of our client JusticeTrax, Inc., under RFP S37-T22904 to the City of Houston against contract award to Porter Lee Corporation because it failed to meet a mandatory technical solicitation requirement that bound both all offerors and the City. On November 9, 2009, Ms. Wiginton committed that the City would provide a decision by November 13, 2009, but no decision has been forthcoming.

Despite funding of the procurement with a United States Department of Justice grant, the City has failed to provide either any "protest procedures to handle and resolve disputes relating to their procurements" or any procedures to ensure that the City of Houston "shall in all instances disclose information regarding the protest to the awarding agency" as mandated by Department of Justice regulations at 28 C.F.R. § 66.36(b)(12). Because the Department of Justice requires first that "[a] protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency," 28 C.F.R. § 66.36(b)(12), we were hopeful that the City of Houston would provide us with a reasoned decision along with, belatedly, its protest and notice procedures. Instead, our client is confronted with no response whatsoever representing the City's "constructive denial" of the protest while, contrary to all principles of law, the awardee continues to perform the contract based on a proposal ineligible for award.

Our client's experience with this protest unfortunately replicates the experience with the City Purchasing Agent, whose office promised my client discussions before award and notice of award, but instead failed to conduct negotiations or to notify our client of award despite its lower priced offer. We have offered to discuss settlement, but again we received no response from your office. Regretfully, our client's reasonable expectations again have been disappointed.

Very truly yours,



Stephen Sale



Subj: **Fwd: Protest of JusticeTrax, Inc.;**  
Date: 11/20/2009 1:28:02 P.M. Pacific Standard Time  
From: SS CSQ  
To: braucherj@justicetrax.com

15

From: Jo.Wiginton@cityofhouston.net  
To: SSSCSQ@aol.com  
Sent: 11/20/2009 12:41:01 P.M. Pacific Standard Time  
Subj: RE: Protest of JusticeTrax, Inc.;

**From:** Wiginton, Jo - LGL  
**Sent:** Friday, November 20, 2009 2:34 PM  
**To:** 'SSCSQ@aol.com'  
**Subject:** RE: Protest of JusticeTrax, Inc.;

Per our phone conversation of a few minutes ago – we are not refusing to respond to your well documented protest; unfortunately Joyce Hayes, the Purchasing Department representative who worked on this procurement, has been in the hospital for surgery and it has not been possible to get in touch with her.

As we discussed, I am sending you a draft of the bid committee opinion, which has not yet been approved or adopted by the City Attorney. We have tried to provide you with attorney general opinions (which can be found at <http://www.oag.state.tx.us/opin/>), statutory citations and case law showing that, under Texas law, a court would not be able to set aside this award or to direct that it be awarded to your client. JusticeTrax, of course, has the right to protest to the Justice Department; however, our purchasing department has massive amounts of evaluation documents that I believe will show that all of the proposers were given ample opportunities to compete for this award. So while I think that the City would ultimately be successful, the HPD will take a real hit to its efforts to restore public confidence in the integrity of its lab if it is slowed down in implementing this program due to a Justice Department protest.

I will send the two attachments later this afternoon when I get them scanned. Please feel free to call me if you have more questions or want to discuss this further. I expect that the signed original of this letter will be going out early next week, if it is approved by the City Attorney.

Jo Wiginton

Sr Assistant City Attorney

832-393-6435

Confidential/Privileged



**From:** SSCSQ@aol.com [mailto:SSCSQ@aol.com]  
**Sent:** Thursday, November 19, 2009 6:20 PM  
**To:** Arturo.Michel@cityofhouston.net; Jo.Wiginton@cityofhouston.net  
**Subject:** Protest of JusticeTrax, Inc.;

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November 19, 2009

Arturo Michel, Esq.

Jo Wiginton, Esq.

City Attorney

Contracts Division Chief

City of Houston

City of Houston Legal Department

1400 Lubbock St

P. O. Box 1562

Houston, TX 77002

Houston, TX 77251-1562

*Re: JusticeTrax, Inc., Protest of Award under RFP S37-T22904*

Dear Mr. Michel and Ms. Wiginton:

We comprehensively presented in good faith the protest of our client JusticeTrax, Inc., under RFP S37-T22904 to the City of Houston against contract award to Porter Lee Corporation because it failed to meet a mandatory technical solicitation requirement that bound both all offerors and the City. On November 9, 2009, Ms. Wiginton committed that the City would provide a decision by November 13, 2009, but no decision has been forthcoming.

Despite funding of the procurement with a United States Department of Justice grant, the City has failed to provide either any "protest procedures to handle and resolve disputes relating to their procurements" or any procedures to ensure that the City of Houston "shall in all instances disclose information regarding the protest to the awarding agency" as mandated by Department of Justice regulations at 28 C.F.R. § 66.36(b)(12). Because the Department of Justice requires first that "[a] protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency," 28 C.F.R. § 66.36 (b)(12), we were hopeful that the City of Houston would provide us with a reasoned decision along with, belatedly, its protest and notice procedures. Instead, our client is confronted with no response whatsoever representing the City's "constructive denial" of the protest while, contrary to all principles of law, the awardee continues to perform the contract based on a proposal ineligible for award.

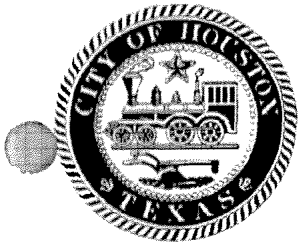
Our client's experience with this protest unfortunately replicates the experience with the City Purchasing Agent, whose office promised my client discussions before award and notice of award, but instead failed to conduct negotiations or to notify our client of award despite its lower priced offer. We have offered to discuss settlement, but again we received no response from your office. Regretfully, our client's reasonable expectations again have been disappointed.

Very truly yours,

/ s /

Stephen Sale





**CITY OF HOUSTON**  
Legal Department

16  
**Bill White**  
Mayor

Arturo G. Michel  
City Attorney  
Legal Department  
P.O. Box 368,  
Houston, Texas 77001-0368  
City Hall Annex  
900 Bagby, 4th Floor

T. 832.393.6491  
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December 1, 2009

Mr. Stephen Sales  
Sales & Quinn, P.C.  
910 Sixteenth St. N.W.  
Fifth Floor  
Washington, D.C. 20006-2992  
**VIA CM/RRR# 7160 3901 9845 8722 6972**

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**BID OPINION NO. B2009005**

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Re: Bid Protest/ Crime Lab Software: RFP No. S37-T22904

Dear Mr. Sales:

Our office has carefully considered all of the materials you provided to support a protest of the award of the above contract to another firm. The City Attorney's Bid Irregularity Committee has investigated your client's complaint and consulted with City employees who were involved in this procurement. As a result, we have determined that no state or federal laws or regulations were violated and that the contract award to the Porter Lee Corporation was appropriate and lawful. Our response to the issues raised in your protest is as follows:

1. The award did not violate the Texas bid law. The state bid law does not even apply to this contract. Local Government Code § 252.022(2) provides that a procurement necessary to protect the public health and safety is exempt from the bid law. [See Tex. Att'y Gen. Op. No's JC-0136 (1999) and M-805 (1971); See also, *Hoffman vs. City of Mount Pleasant*, 89 S.W. 2d 193 (Tex. 1936)]. This contract is for the management of the Houston Police Department crime laboratory, which is responsible for analyzing and cataloguing most of physical evidence involved in investigating and prosecuting crimes. The HPD crime lab has been under intense public scrutiny over the last few years because of questions about the integrity of some of its operations, and this contract is closely connected to the Department's efforts to improve accuracy and accountability in its laboratory.

2. Protestor has no right to have the contract awarded to it. Because the state bid law provides a city may always reject all bids, it is well established in Texas law that a bidder or proposer has no right to compel a city's governing body to award a contract to it. See *A&A Construction vs. City of Corpus Christi*, 527 S.W. 2d 844 (Tex. Civ. App.—Corpus Christi 1975, no writ).

3. The City used a procurement process that allowed for open, fair and free competition. The City advertised for proposals on this project in the local newspaper on May 16 and 23, 2008, as well as on the City's website. Proposals were received on June 6, 2008, and evaluated on an extensive rating matrix in July of 2008; then the proposers, including Protestor, were invited to provide in-person demonstrations in August, 2008, on which they were again evaluated.

While the RFP stated that the use of MS SQL for the database platform was "mandatory," it also stated that

*The Requirement Matrix is intended to summarize the functionality desired in the LIMS as stated in the RFP. A lack of ability to meet each of the functions indicated may not preclude a vendor from consideration during the selection process.*

The City evaluation committee, who analyzed the proposals in great detail and who observed the demonstration, determined that Porter Lee had the best proposal. It rated Porter Lee first overall, with a score of 84, and Protestor second, with a score of 81. (See Att. 1). In the evaluation of just the demonstration, Protestor's product was rated third—behind Porter Lee and TSCS.

Porter Lee is not being excused from the obligation to have its product run on an MS SQL platform; as you point out in your letter, it is still required to provide a final product that is SQL based; it is simply being allowed to do that conversion as the last thing after creating the new system and migrating that data.

4. The City has valid protest procedures to handle and resolve vendor disputes. The award of this contract to Porter Lee Corp was posted on the city council agenda of June 30, 2009, both at the entrance to City Hall and on the internet, as required by §551.041 *et. seq.* of the Texas Government Code. In Texas, posting on the agenda of a governmental entity is deemed to be notice to all interested parties of a contemplated government action. There is no requirement that the City notify potential vendors individually that the bid is being awarded to a competitor. In this case, Joyce Hayes, of the City's Strategic Purchasing Department, did notify Justice Trax that it had awarded the Contract to Porter Lee on July 13, 2008. (See Attachment 2)

Chapter VII §3 of the Houston City Charter provides the City Council shall meet weekly and that "citizens of the City shall have a reasonable opportunity to be heard at any such meetings in regard to any matter to be considered." Section 2-2 of the Houston City Code reiterates that council meetings shall be open to the public and shall provide citizens of the City "with a reasonable opportunity to be heard at any such meetings in regard to any matter to be considered." In addition, City Council, a City department or a member of the public may ask the City Attorney to investigate and advise as to a protest or question regarding a procurement, as has occurred in this case.

Therefore, it is our conclusion that there was no violation of Texas bid law in this case, that no court has the power to award this contract to protestor, that there was adequate opportunity for competition for this award and that a protest to the Justice Department would serve no purpose except to delay or possibly derail the implementation of this evidence management system, which is a vital part of restoring the integrity of the City's crime laboratory and ensuring justice for both victim and accused alike.

Thank you for your professional approach and the extensive materials you provided. I apologize for the time it has taken to get this response to you, but we wanted to be sure we had investigated and checked out every issue you raised.

Yours truly,

*/s/*  
Arturo G. Michel  
City Attorney

AGM/jw:jdw

**Approved:  
Bid Irregularity Committee**

Susan Taylor  
Deputy City Attorney

Jo Wiginton  
Sr. Assistant City Attorney

Martin Buzak  
Assistant City Attorney

April Greenhouse  
Assistant City Attorney

Stephen Sales  
Page 4

cc: Alice Wilson  
Calvin Wells  
Pat Cheesman  
Joseph Fenninger





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December 16, 2009

Via Fax 202-305-1367 and Express Mail      Email Jill.Young@usdoj.gov

Mr. James H. Burch, II  
Acting Director  
Bureau of Justice Assistance  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street N.W.  
Fourth Floor  
Washington, DC 20531

Ms. Jill Young  
Division Chief, South Region  
Bureau of Justice Assistance  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street N.W.  
Fourth Floor  
Washington, DC 20531

Re: *JusticeTrax, Inc., Protest of Federally Funded Contract Award by the City of Houston, TX, to Porter Lee Corporation*

Dear Mr. Burch and Ms. Young:

Pursuant to § 66.36(b)(12) of Title 28 of the Code of Federal Regulation, JusticeTrax, Inc., hereby protests to the Bureau of Justice Assistance of the Department of Justice ("DOJ") the award by the City of Houston ("City") of a contract, funded by a DOJ grant, to Porter Lee Corporation in violation of Federal law. The City violated DOJ regulations by: (1) accepting Porter Lee's noncompliant offer and rejecting the JusticeTrax lower-priced and fully compliant offer; and (2) failing to adopt and to follow protest procedures that could provide for impartial protest consideration and redress.

I. Name, Address, Fax and Telephone Numbers of the Parties.

The Protestor is as follows:

JusticeTrax, Inc.  
One West Main Street  
Suite 625  
Mesa, AZ 85201

Counsel for the Protester is as follows:

Stephen Sale  
Sale & Quinn, P.C.  
910 16th Street, N.W.  
Fifth Floor  
Washington, DC 20006  
Fax: 202-887-5137  
Phone: 202-872-4713  
Email sscsq@aol.com

Counsel for Respondent City of Houston is as follows:

Jo Wiginton, Esq.  
Sr. Assistant City Attorney  
Office of the City Attorney  
P. O. Box 1562  
Houston, TX 77251-1562  
Phone 832-393-6435  
Email: Jo.Wiginton@cityofhouston.net

2. Solicitation Number and Awardee.

The City's Solicitation is RFP S37-T22904 on behalf of the Crime Laboratory of the Houston Police Department ("HPD"). The City made award to Porter Lee Corporation in violation of DOJ regulations based on Porter Lee's noncompliant offer in the amount of \$773,390. JusticeTrax submitted the second-ranked and fully compliant offer in the amount of \$732,279, which is \$41,111 less than Porter Lee's noncompliant offer accepted by the City, notwithstanding JusticeTrax's provision of more add-on and custom services.

3. Detailed Statement of Legal and Factual Grounds for Protest.

a. Applicable Legal Standards.

The City's Request for Council Action indicates that the awarded contract would be Federally funded in the amount of \$587,315. Following JusticeTrax's post-award inquiry, the City's Purchasing Agent provided JusticeTrax with a section of the Texas Municipal Code providing only for judicial review in an injunctive action by a taxpayer of the city or county conducting the procurement. The City failed to provide JusticeTrax with any City of Houston administrative protest procedures or reference to DOJ's governing regulations in Title 28, Code of Federal Regulations, Part 66, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Those DOJ regulations expressly entitle an offeror to protest against a DOJ grantee's procurement action as follows:

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. ...

28 C.F.R. § 66.36(b)(12). The City's award to Porter Lee violates both the substantive and procedural requirements of DOJ's regulations governing DOJ grant-funded procurement.

As a DOJ grantee, the City's procurements must conform to applicable Federal law and the standards identified in 28 C.F.R. § 66.36(c)(1). The City was prohibited from "arbitrary action in the procurement process." 28 C.F.R. § 66.36(c)(1)(vii). Further, the City was required to comply with the DOJ requirement that "[g]rantees and subgrantees will make *awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions* of a proposed procurement." 28 C.F.R. § 66.36(b)(8) (emphasis added). It is axiomatic that a grantee would violate Federal regulations by failing to "make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement." *Id.*

b. Factual Grounds of Protest.

On December 3, 2009, JusticeTrax received the final decision of the City Attorney that was dated December 1, 2009. Exhibit A. The City Attorney denied the protest on the following grounds:

1. The award did not violate Texas law. Consistent with 28 C.F.R. § 66.36(b)(12)(b)(i), JusticeTrax bases this protest exclusively on Federal law.
2. Protestor JusticeTrax has no right to award under Texas law. JusticeTrax does not base this protest on Texas law.
3. The City's procurement was fair because the term "mandatory" in the Requirements Matrix did not really mean mandatory. JusticeTrax argued that the offer of LIMS on a Microsoft 2005 SQL Server was a mandatory requirement of the remainder of the RFP, which by its terms took precedence over the Requirement Matrix.
4. The City of Houston has administrative protest procedures. JusticeTrax has requested a copy of any such procedures since inception of this protest, but the City has failed to provide any such procedures. Further, JusticeTrax's protest was decided by the City Attorney's Office, which (a) had been a signatory to the contract, and (b) recommended approval of the contract by the Houston City Council. The Office of the City Attorney obviously could not impartially decide the protest consistent with the Due Process Clause of the Fourth Amendment to the United States Constitution.

i. The City's RFP.

On May 6, 2008, the City issued RFP S37-T22904 soliciting offers for a basic LIMS, certain add-on features and maintenance for five years. Exhibit B. First and foremost, the RFP required LIMS operation and implementation exclusively on a Microsoft 2005 SQL Server as follows:

4.6 IT Requirements

This section describes LIMS software, hardware, and related infrastructure resources necessary to support the current future HPD enterprise.

4.6.1 The LIMS shall operate within the HPD Information Technologies infrastructure standards managed by HPD Technology Services Division (TSD) and work cooperatively with many HPD information systems. ...

4.6.2 ... *The HPD server environment utilizes ... MS SQL Server 2005, and other specialized applications.* ...

NOTE: Where a software application/system version is specified in this document it is meant to state the current working version in the Houston HPD infrastructure. ... The proposed LIMS shall not require HPD TSD to upgrade to a more recent version of the application, nor shall it prevent HPD TSD from upgrading said application to the currently available release.

4.6.3.1 DATABASE PLATFORMS

*The LIMS shall utilize the MS SQL Server 2005. The LIMS shall use this database product for all LIMS managed information and configurations.*

\* \* \*

4.7 LIMS DATABASE CHANGES

4.7.1 ... *Tools used to configure Proposer-provided tables and user interfaces provided by the user shall include the ability to expose new database objects ..., views created in MS SQL...*

Exhibit B, RFP S37-T22904, "Statement of Work" at 23-24, 27 (emphasis added). Thus, the City's Statement of Work repeatedly specified that each offeror must propose both LIMS implementation and fully compatible LIMS operation on an MS 2005 SQL server.

In the RFP's Statement of Work, the City states that the parts of the RFP other than the Requirements Matrix are controlling over the Requirements Matrix:

6.2 ... Instructions for completing the Requirements Matrix are as follows:

\* \* \*

6.2.4 Column D: Priority Code

6.2.4.1 Requirements in this column are classified as:

**MANDATORY (M) - These requirements must be provided**  
HIGHLY DESIRABLE (HD) – These requirements are important  
DESIRABLE (D) – These requirements are desirable

\* \* \*

6.3 All requirements and sub-requirements must be answered. Providing detail how your product meets this requirement will enable the evaluation committee to best evaluate your product's capabilities. ...

\* \* \*

6.7 ... Note: [The Requirements Matrix in] EXHIBIT XV is only a summary list of requirements. **The proposed system must meet all required technical specifications as defined in the RFP.** Interpretation of the **Proposers fulfillment of the specific requirements of this RFP will be determined by the requirements set forth in this RFP** and all associated requirements, **not the Requirements Matrix.**

Exhibit B, RFP S37-T22904, "Statement of Work" at 34-35 (emphasis added). **The City's RFP thus unequivocally gave the remainder of the RFP precedence over the Requirements Matrix.**

The Requirements Matrix in RFP S37-T22904, Exhibit XV, nonetheless contains the following mandatory software capabilities requirements for implementation of the LIMS software on a Microsoft SQL Platform.

The LIMS shall utilize MS SQL Server 2005. The LIMS shall use this database product for all LIMS managed information and configurations.

Exhibit C, RFP S37-T22904 at Exhibit XV, Requirements Matrix at 3, # 27.

The required implementation and operation of the LIMS on the "MS SQL Server 2005" are repeatedly confirmed as mandatory terms and conditions of the RFP. On May 28, 2008, the Strategic Purchasing Division of the Office of the City Purchasing Agent issued Letter of Clarification 1 containing Clarification Question and Answer 12.0 that expressly confirmed the mandatory nature of this RFP requirement as follows:

12.0 Is the MS SQL Server mandatory for the database platform.  
**ANSWER: Yes this is mandatory.**

Exhibit D (emphasis in original).[1][1] The scope of the City's answer applied to the entire RFP, and not just to the Requirements Matrix. Accordingly, the RFP was

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[1][1] Question and Answer 14 in Exhibit D demonstrate as follows that Porter Lee was in a position to influence the City to choose its noncompliant LIMS programmed in Oracle, rather than the mandatory MS SQL Server:

absolutely clear that, in order to be qualified for award, an offeror was required to program, to implement and to operate its LIMS on a Microsoft 2005 SQL Server.

ii. Offers Received by City.

The City considered six responsive offers. The City made award to Porter Lee Corporation based on its *non-compliant offer* in the amount of \$773,390, which includes a basic LIMS for \$561,550 that is not implemented on the required Microsoft SQL Server 2005, add-ons of \$59,500, and five-year maintenance of \$153,340.

JusticeTrax, Inc., second-ranked by the City of Houston,[2][2] submitted a fully *compliant LIMS offer* in the amount of \$530,403 with Microsoft SQL Server 2005 implementation for \$270,000, 1,000 hours of LIMS customization at a cost of \$150,000, one year of annual maintenance at \$50,469 and add-ons of \$59,934. Including four additional years of JusticeTrax maintenance at a cost of \$201,876, the total cost of fully compliant implementation and five-year performance by JusticeTrax would be \$732,279, which is \$41,111 less than Porter Lee's accepted noncompliant offer.

iii. Award to Porter Lee Based on Its Non-Compliant Offer.

The RFP at ¶ 1.1, as amended by Question and Answer 18 in Letter of Clarification I dated May 28, 2008, stated that "[a]n evaluation committee will develop a list of Proposers for demonstration purposes." Exhibit D. JusticeTrax was never asked to provide a demonstration even though it was the second-ranked offeror. Although the Office of the City Purchasing Agent had committed to provide JusticeTrax with notice of award, JusticeTrax did not receive any such notice from the City.[3][3] Instead,

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14.0 In the RFP (section 4.10.7) you describe the required Evidence Management System (EMS) that is to be installed in the HPD Property Room. Have you selected an EMS for this purpose or can the LIMS vendors propose a solution for the EMS in the HPD Property Room?

**ANSWER: Porter Lee Corporation has been selected to install and implement the evidence management system.**

Exhibit D (emphasis in original).

[2][2] In the letter denying the JusticeTrax protest, the Houston's City Attorney alleged that JusticeTrax was third-ranked. Exhibit A, Letter of City Attorney Arturo Michel (December 1, 2009). This claim is belied by the ranking appended to that letter showing JusticeTrax as second-ranked with 81 points and TCSC third-ranked with 79.4 points. That the City's evaluation and award were arbitrary is further demonstrated by the fact that Porter Lee's proposal is higher ranked in five-year price even though its price is \$41,111 higher than that of JusticeTrax. Within the JusticeTrax lower-priced offer, JusticeTrax offers \$150,000 more than Porter Lee in software customization and add-ons. [3][3] In the denial of the JusticeTrax protest, the City included a copy of a letter addressed to JusticeTrax dated July 13, 2009, that was never received by JusticeTrax. JusticeTrax is certified under ISO 9000 procedures that include mail-handling procedures. All mail received by JusticeTrax is logged and imaged. The City sent by

JusticeTrax became aware of City's award to Porter Lee from an industry trade meeting in September 2009. JusticeTrax then promptly filed its protest with the City.

The City Purchasing Agent, Controller and Assistant City Attorney signed a contract with Porter Lee on July 7, 2009. Exhibit E. Porter Lee had more than 14 months between RFP issuance and contract award to demonstrate that it could meet the terms and conditions of the RFP. Instead, the City radically altered the terms and conditions of the RFP in the Statement of Work of the City's contract with Porter Lee.

As altered, the Statement of Work in the City's contract with Porter Lee bears little resemblance to the Statement of Work in the City's RFP. The Statement of Work in the Porter Lee contract calls for its Oracle LIMS, rather than the Microsoft SQL Server specified throughout the RFP by the City, thereby demonstrating that Porter Lee's LIMS fails to meet that Microsoft SQL 2005 LIMS specified in the RFP. Exhibit B. Thus, notwithstanding the clear above-stated "super-mandatory" Microsoft SQL server LIMS specifications, the City made award to Porter Lee for noncompliant Oracle LIMS. Because Oracle LIMS specification of the Statement of Work in the City's Porter Lee contract violates the mandatory technical specifications of the RFP's Statement of Work, the City's award to Porter Lee violates the requirements of DOJ regulations that award can only be made to "responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement."

The newly written Acceptance Standards of the City's contract with Porter Lee Corporation violate the terms and conditions of the procurement as follows:

... 2. Software installation providing the required software and server for the *initial implementation using Oracle* is the initial system in *not operating on a Microsoft SQL Platform*.

Exhibit E, Agreement, "Statement of Work," at 24-25 (emphasis added). The terms and conditions of the City's RFP required installation of LIMS on the Microsoft 2005 SQL Server, but the terms and conditions are again violated by the following "Configuration" requirements in the Statement of Work in the City's Porter Lee contract:

... b. Installation and testing of the *LIMS Oracle* and/or Microsoft SQL software...

Exhibit 6, Agreement, "Statement of Work," at 25 (emphasis added).

The newly written "Database Migration" requirements in the Statement of Work of the City's contract with Porter Lee violate the terms and conditions of the RFP as follows:

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certified mail to undersigned counsel the letter denying the JusticeTrax protest, but any notice of award from the City was neither sent certified mail, nor received by JusticeTrax.

4. Database Migration - Installation and testing of the *LIMS Oracle* and/or Microsoft SQL software.

Exhibit E, Agreement, "Statement of Work," at 25 (emphasis added).

Contrary to the RFP terms and conditions of LIMS programmed for and operated on a Microsoft SQL Server at the time of offer submission on June 6, 2008, the newly written "Implementation and Customization" terms and conditions in the Statement of Work of the City's July 9, 2009, contract with Porter Lee violate the terms and conditions of the RFP as follows:

Task 4. Implementation and Customization: Conversion to SQL (if required) and Records Management Interface (OLO)

\* \* \*

3. If the system was not originally implemented on a Microsoft SQL Platform, at the sole discretion of the Director, *if the contractor fails to complete conversion of data from the Oracle server to the Microsoft server by July 31st 2010*, the City of Houston will make demand on the performance bond executed by the Contractor to recoup fees paid to the Contractor and recover expenses incurred by the City for the project up to the date of rejection of the system. Contractor shall perform the conversion in the client server application and any web applications. ...

Exhibit E, Agreement, "Statement of Work" at 26-27. Porter Lee is not a "responsible contractor[]" possessing the ability to perform successfully under the terms and conditions of a proposed procurement" because Porter Lee provided a noncompliant implementation and operation of LIMS programmed on Oracle, rather than on the mandatory Microsoft 2005 SQL Server as repeatedly required by the terms and conditions of the RFP.

The terms and conditions of the RFP allowed only a single data conversion to a compliant offeror's Microsoft 2005 SQL Server LIMS totally compatible with the HPD systems currently in use.[4][4] The City and Porter Lee violated the terms and conditions of the RFP by developing a newly written second set of "Acceptance Standards" in the event Porter Lee ever were to convert to implementation on the mandatory Microsoft SQL Platform. Thus, in violation of the terms and conditions of RFP, the City and its awardee Porter Lee would now provide for two data conversions: first, from the City's

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[4][4] In denying the protest, the City Attorney glibly argued that "Porter Lee is not being excused from the obligation to have its product run on an MS SQL platform . . . it is simply being allowed to do that conversion as the last thing after creating the new system and migrating that data." In fact, the Porter Lee offer was not even responsive to the City's RFP, and that offer should have been rejected outright as nonresponsive to the City's mandatory specifications requiring that each offeror submit an offer to install LIMS programmed and operated on the Microsoft SQL server exclusively.

NOTE: EXHIBITS WILL BE DELIVERED WITH YOUR HARD COPY



current system to Porter Lee's Oracle implementation; and, second, if Porter Lee ever were to proffer demonstrated LIMS programmed for and operated on the Microsoft SQL Server, then to the Microsoft SQL Server. The acceptance standards in the Porter Lee contract violate the terms and conditions of the RFP by providing for a second implementation and data conversion by Porter Lee from its noncompliant Oracle platform as follows:

2. Customization – Interface to OLO functional for reports and transfer supplements. Successful conversion to SQL using side by side comparisons of reports and data.
3. Conversion to SQL (if applicable)
  - a. Installation, conversion and testing of the LIMS for Microsoft SQL Server.

Exhibit E, Agreement, "Statement of Work," at 27.

The Statement of Work in the Porter Lee contract violates the terms and conditions of the RFP by imposing the following newly written compatibility and support responsibilities on the City that have no basis under mandatory specifications of the RFP:

#### CITY'S RESPONSIBILITIES

##### System Requirements

1. Oracle Database Server

Should the initial system be based on an Oracle platform, HPD will provide protected power, rack space, network connectivity and network services (DNS, DHCP, etc.) for the database server. ***The Oracle database server provided by Contractor must conform to HPD hardware/software standards as defined in the attached hardware/software standards...*** . The server is to be joined to the HPDWINAD domain with the assistance/cooperation of HPD Technology Service personnel and will use Microsoft Active Directory....

Contractor will specify disk space estimate for five years. ...

2. Microsoft SQL Database Server

***HPD will provide protected power, rack space, network connectivity and network services (DNS, DHCP, etc.) and an SQL server at the time the system is migrated from Oracle. ...***

Exhibit E, Agreement, "Statement of Work," at 29-30 (emphasis added). Although Porter Lee failed to meet the Microsoft 2005 SQL Server LIMS requirement at the time of offer submission, evaluation and award, the City nonetheless totally rewrote the Statement of Work from the RFP for the Porter Lee contract, thereby clearly violating the terms and conditions of the City's own RFP.

b. Legal Grounds of Protest.

i. Inability of City's Contractor to Perform RFP Terms and Conditions.

The City has clearly violated the requirement of DOJ regulations that “[g]rantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.” 28 C.F.R. § 66.36(b)(8). JusticeTrax originally presented this protest to the Office of the City Attorney, which is the same legal office that urged the Houston City Council to enact an ordinance written by the Office of the City Attorney to approve the Porter Lee contract. JusticeTrax presented the above evidence demonstrating that Porter Lee’s offer totally failed to meet the oft-stated mandatory requirements of the RFP that the offeror must implement and operate its LIMS on a Microsoft 2005 SQL Server.

By decision dated December 1, 2009, the Office of the City Attorney denied as follows the JusticeTrax protest on the grounds of Porter Lee’s inability to meet the terms and conditions of the RFP on the grounds that the term “mandatory” did not mean mandatory:

While the RFP stated that the use of MS SQL for the database platform was “mandatory,” it also stated that

The Requirement Matrix is intended to summarize the functionality desired in the LIMS as stated in the RFP. A lack of ability to meet each of the functions indicated may not preclude a vendor from consideration during the selection process.

Exhibit A, Letter of City Attorney Arturo Michel (December 1, 2009). The City cannot prevail in this protest by the mere expedient of parsing the word “mandatory.”

In its RFP, the City specifically disclaimed as follows that the Requirements Matrix is controlling over the other parts of the RFP:

Note: [The Requirements Matrix in] EXHIBIT XV is only a summary list of requirements. *The proposed system must meet all required technical specifications as defined in the RFP. Interpretation of the Proposers fulfillment of the specific requirements of this RFP will be determined by the requirements set forth in this RFP and all associated requirements, not the Requirements Matrix.*

Exhibit B, RFP S37-T22904, “Statement of Work” at 35, § 6.7 (emphasis added). Nowhere does the RFP state that an offeror need not satisfy all mandatory technical requirements that are contained in parts of the RFP other than the Requirements Matrix. .

Accordingly, the City Attorney's reasoning is arbitrary and clearly erroneous as follow:

1. The City's RFP clearly stated that "the specific requirements of this RFP" take precedence over the Requirements Matrix. "[T]he specific requirements of the RFP" gave no indication whatsoever that the term "mandatory" meant anything other than mandatory.
2. The Requirements Matrix itself defined requirements as "MANDATORY," "HIGHLY DESIRABLE" and "DESIRABLE" and, in stating the offerors need not necessarily fulfill all requirements in the matrix, nowhere is it stated there that offerors were excused from fulfilling those requirements designated "MANDATORY."

The "bait and switch" tactics of the City in demanding in the RFP that offerors supply only LIMS programmed for the Microsoft SQL Server and then making award to Porter Lee for the Oracle LIMS clearly violates Federal law governing Federally funded procurement. It is elementary that the City's decision is arbitrary if it lacks a reasonable basis. The selection decision of a procuring agency lacks a reasonable basis where the evaluation criteria in the RFP are discarded in making award. This principle has been stated as follows:

An evaluation does not have a reasonable basis unless it is founded on the RFP evaluation criteria which offerors were told would be used in evaluating their proposals. It is fundamental that offerors must be treated equally and are entitled to know and rely on the evaluation criteria which are to be used in order to intelligently frame their proposals. ...

In evaluating expected performance, agencies must apply technical standards equally.

Exhibit F, *RMI, Inc.*, Comp. Gen. Dec. B-203652, 83-1 CPD ¶ 423 (1983), reconsidered, 84-1 CPD ¶ 630 (1984) (emphasis added), citing *Signatron, Inc.*, 54 Comp. Gen. 530 (1974), 74-2 CPD ¶ 386; Exhibit F, *Motorola Inc., Communications Group*, B-200822 (June 22, 1981), 81-1 CPD ¶ 514 ("Protest is sustained where agency accepted proposal which did not conform with solicitation requirements in several significant respects..."); accord, Exhibit F, *Isometrics, Inc. v. United States*, 5 Ct. Cl. 420 (1984) ("disparate or unequal treatment of similarly situated offerors justify preliminary injunctive relief in favor of plaintiff"). Because the City's award to Porter Lee is arbitrary and without reasonable basis, this protest must be sustained and the City must be ordered to rescind award to Porter Lee or to refund the DOJ grant.

ii. Failure to Adopt Protest Procedures or to Consider Fairly the Protest.

In the denial of the protest, the City Attorney argued both that the City has protest procedures and that JusticeTrax could not compel award of a contract. JusticeTrax has

no idea what protest procedures to which the City Attorney is referring. Neither the City Purchasing Agent nor City Attorney has ever provided JusticeTrax with a copy of any protest procedures. The City Purchasing Agent provided JusticeTrax with a copy of a Texas municipal procurement statute that appears to provide rights under state law to an injunctive action by a taxpayer who lives in the City of the Houston. If administrative protest procedures in fact had been prepared by the City Attorney and promulgated by the City, the City Attorney certainly would have provided JusticeTrax with a copy of those procedures. JusticeTrax no reason to believe that the City has any protest procedures.

Accordingly, the City violated the DOJ requirement in 28 C.F.R. § 66.36(b)(12) that “[g]rantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements.” Indeed, DOJ regulations establish, as one of two sustainable protest bases, “[v]iolations of the grantee’s or subgrantee’s protest procedures for failure to review a complaint or protest.” 28 C.F.R. § 66.36(b)(12)(ii). By failing to adopt and to apply protest procedures, the City has engaged in a *per se* violation of 28 C.F.R. § 66.36(b)(12)(ii). In other words, it is not possible for a DOJ grantee to comply with protest procedures that do not even exist.

Due to the failure to adopt protest procedures, the City Attorney’s consideration of the JusticeTrax protest would necessarily be arbitrary. This protest therefore must be sustained due to the City’s “arbitrary action in the procurement process.” 28 C.F.R. § 66.36(c)(1)(vii).

The arbitrariness of the City Attorney’s decision is further confirmed by the City Attorney’s conflicted role. The Assistant City Attorney was a signatory “who approved as to form” the Porter Lee contract with the City. Exhibit E. Further, the Office of the City Attorney prepared the “City Council Action” package to approve Porter Lee’s contract by enactment of a City ordinance. JusticeTrax suspects that the City Attorney approved the RFP and will defend the City in this protest. The central role of the City Attorney in the City’s contract with Porter Lee in relation to the Houston City Council approval and defense of the contract conflicts irreconcilably, in violation of due process of law, with the ability to decide a protest objectively. Again, the City Attorney’s internal “procedures” for this protest are arbitrary *per se*.

The City Attorney’s Office has advised JusticeTrax that its recommendations are advisory only. The arbitrariness of the City Attorney’s decision is reconfirmed by the inability of the City Attorney to affect contract award.

iii. City’s Claim of Exigency.

The City Attorney further argues that a protest could not be sustained because “a procurement of necessary to protect the public health and safety is exempt from the bid law.” Exhibit A. In the RFP, the City stated that “[t]he price agreements shall become effective on or about **October 10, 2008** for a term of two calendar years.” Exhibit B at 8, § 8.8 (emphasis in original). The City’s intent to make award by October 10, 2008, is clear. In fact, the City did not make award until *nine months* later on July 9, 2009. In

the event of an actual public health and safety exigency, the City obviously would not have delayed award for nine months beyond the date stated in its own RFP.

Indeed, the City easily could have made award to compliant offeror JusticeTrax on or before October 10, 2008. Instead, the City and Porter Lee engaged in protracted rewriting of the RFP's Statement of Work to create the cardinally changed Statement of Work in its contract with Porter Lee. The City cannot credibly argue that a public health and safety exigency existed after July 9, 2009, when no such exigency was present between May 6, 2008, and July 9, 2009.

4. Copies of All Relevant Documents in the Possession of JusticeTrax.

In addition to the Exhibits cited above, JusticeTrax attaches the following correspondence with the Office of the City Attorney:

1. Emails among Jeffrey Braucher of JusticeTrax and Calvin Wells and Douglas Moore of City of Houston (Sept. 18, 2009);
2. Protest Letter of Stephen Sale to City Purchasing Agent Calvin Wells and City Attorney Arturo Michel (Sept. 25, 2009) (with Exhibits 1-4);
3. Letter of Stephen Sale to Jo Wiginton, Esq., Office of City Attorney (Oct. 2, 2009) re protest procedures;
4. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 7, 2009) re further materials (with Exhibits 5-9);
5. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 13, 2009) re request for protest procedures and providing further materials;
6. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 20, 2009) re final submission and summation;
7. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 26, 2009) re exhaustion of remedies and request for decision;
8. Letter of Stephen Sale to Jo Wiginton, Esq., (Nov. 19, 2009) re demand for decision; and
9. Email of Jo Wiginton, Esq., to Stephen Sale transmitting attached draft decision and asking JusticeTrax not to protest to United States Department of Justice (Nov. 20, 2009).
10. Draft protest decision and attachments (Nov. 20, 2009).

Exhibit G.

Additionally, the City of Houston should be required to produce (a) a copy of the Porter Lee offer, which JusticeTrax's counsel would agree to maintain as confidential if necessary, and (b) the City's entire evaluation of the proposals. Undersigned Washington counsel for JusticeTrax would be willing to sign a confidentiality agreement prior to receipt of those documents.

5. JusticeTrax Request for a Ruling by the Agency.

JusticeTrax respectfully requests that the Government, in and through the Director of the Bureau of Justice Assistance of the Office of Justice Programs of the U.S. Department of Justice, issue a written ruling on this protest.

6. Statement of the Form of Relief Requested by JusticeTrax.

JusticeTrax expressly reserves the right to reply to any filing by the City. When the record of this protest is closed, respectfully requests relief in the form of: (a) rescission of the contract awarded Porter Lee on the grounds of violation of DOJ regulations or, in the alternative, rescission of funding with a repayment order to the City of Houston if its refuses to rescind the Porter Lee contract; (b) award of the contract to JusticeTrax as the highest-ranked compliant offeror that also protested award; (c) direction to the City of Houston to promulgate protest procedures consistent with DOJ regulations and suspension of grant funding to the City of Houston until such time as it promulgates and complies with protest procedures consistent with DOJ regulations; and (d) direction to the City to pay JusticeTrax its attorney fees and costs of this protest.

7. Timeliness of Protest and Exhaustion of Grantee Remedies.

Because the City of Houston has no protest procedures, the City has not argued and could not conceivably argue that the JusticeTrax protest was untimely. JusticeTrax nonetheless promptly filed its protest when it learned at an industry meeting of the award to Porter Lee Corporation.

JusticeTrax first presented its protest to the City of Houston, notwithstanding its lack of protest procedures, so that the City could not claim that JusticeTrax failed to exhaust administrative remedies at the grantee level.

Please advise me if you require any additional information to evaluate this protest. If the Government were not to grant this protest summarily, then JusticeTrax requests an oral hearing before your Office.

Very truly yours,

Stephen Sale

cc: Jo Wiginton, Esq.

[1][1] Question and Answer 14 in Exhibit D demonstrate as follows that Porter Lee was in a position to influence the City to choose its noncompliant LIMS programmed in Oracle, rather than the mandatory MS SQL Server:

14.0 In the RFP (section 4.10.7) you describe the required Evidence Management System (EMS) that is to be installed in the HPD Property Room. Have you selected an EMS for this purpose or can the LIMS vendors propose a solution for the EMS in the HPD Property Room?

**ANSWER: Porter Lee Corporation has been selected to install and implement the evidence management system.**

Exhibit D (emphasis in original).

[2][2] In the letter denying the JusticeTrax protest, the Houston's City Attorney alleged that JusticeTrax was third-ranked. Exhibit A, Letter of City Attorney Arturo Michel (December 1, 2009). This claim is belied by the ranking appended to that letter showing JusticeTrax as second-ranked with 81 points and TCSC third-ranked with 79.4 points. That the City's evaluation and award were arbitrary is further demonstrated by the fact that Porter Lee's proposal is higher ranked in five-year price even though its price is \$41,111 higher than that of JusticeTrax. Within the JusticeTrax lower-priced offer, JusticeTrax offers \$150,000 more than Porter Lee in software customization and add-ons.

[3][3] In the denial of the JusticeTrax protest, the City included a copy of a letter addressed to JusticeTrax dated July 13, 2009, that was never received by JusticeTrax. JusticeTrax is certified under ISO 9000 procedures that include mail-handling procedures. All mail received by JusticeTrax is logged and imaged. The City sent by certified mail to undersigned counsel the letter denying the JusticeTrax protest, but any notice of award from the City was neither sent certified mail, nor received by JusticeTrax.

[4][4] In denying the protest, the City Attorney glibly argued that "Porter Lee is not being excused from the obligation to have its product run on an MS SQL platform . . . it is simply being allowed to do that conversion as the last thing after creating the new system and migrating that data." In fact, the Porter Lee offer was not even responsive to the City's RFP, and that offer should have been rejected outright as nonresponsive to the City's mandatory specifications requiring that each offeror submit an offer to install LIMS programmed and operated on the Microsoft SQL server exclusively.

NOTE: EXHIBITS WILL BE DELIVERED WITH YOUR HARD COPY

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18

LAW OFFICES  
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Email: SSSSQ@aol.com

Direct: 202-872-4713

February 1, 2010

Via Fax 202-514-3456 (w/o attachments) and U.S. Mail (w/ attachments)

Martin U. Onwu, Esq.  
Associate General Counsel  
Legal Division  
Office of Community Oriented Policing Services (COPS)  
U.S. Department of Justice  
1100 Vermont Avenue, N.W.  
Washington, DC 20530

FEB - 5 2010

Re: *Exhaustion of Administrative Remedies; JusticeTrax, Inc., Protest of City of Houston, TX, Contract Award to Porter Lee Corp. under COPS Tech Grant # 2005CKWX0224, ORI # TXHPD00*

Dear Mr. Onwu:

This responds to your request that Protester JusticeTrax, Inc., document the exhaustion of its administrative remedies before the City of Houston pursuant to 28 C.F.R. § 66.36(b)(12) in the JusticeTrax protest to Porter Lee Corp. The attached documentation confirming the exhaustion of administrative remedy by JusticeTrax was enclosed as Exhibit G to the protest with the following 10 subparts:

1. Emails among Jeffrey Braucher of JusticeTrax, and Calvin Wells and Douglas Moore of City of Houston (Sept. 18, 2009);
2. Protest Letter of Stephen Sale to City Purchasing Agent Calvin Wells and City Attorney Arturo Michel (Sept. 25, 2009) (with Exhibits 1-4);
3. Letter of Stephen Sale to Jo Wiginton, Esq., Office of City Attorney (Oct. 2, 2009) re protest procedures;
4. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 7, 2009) re further materials (with Exhibits 5-9);
5. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 13, 2009) re request for protest procedures and providing further materials;
6. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 20, 2009) re final submission and summation;
7. Letter of Stephen Sale to Jo Wiginton, Esq., (Oct. 26, 2009) re exhaustion of remedies and request for decision;

**SALE & QUINN, P.C.**

Via Fax 202-514-3456 and US. Mail

Martin U. Onwu, Esq.

February 1, 2010

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8. Letter of Stephen Sale to Jo Wiginton, Esq., (Nov. 19, 2009) re demand for decision;
9. Email of Jo Wiginton, Esq., to Stephen Sale transmitting attached draft decision and asking JusticeTrax not to protest to United States Department of Justice (Nov. 20, 2009); and
10. Draft protest decision and attachments (Nov. 20, 2009).

We advised our client of the requirement of exhaustion of remedies [under in 28 C.F.R. § 66.36(b)(12)], and initiated the JusticeTrax protest to the City of Houston to exhaust any administrative remedy. At that time, we had not obtained information on the evaluation process by the City of Houston, so we simultaneously filed the local equivalent of Freedom of Information Act requests with the Office of City Attorney.

The emails in Exhibit G.1 were exchanged on September 18, 2009, when JusticeTrax discovered that the contract had been awarded to Porter Lee Corp. City Purchasing Agent Calvin Wells then provided JusticeTrax Chief Operating Officer Jeffrey Braucher, with a copy of Chapter 252 of the Texas Local Government Code, attached as Exhibit H. The only remedy in Chapter 252 for an unsuccessful offeror is specified by § 252.061 as a taxpayer injunctive action for contract award in violation of that Chapter.

In accordance with the exhaustion of administrative remedy requirements of 28 C.F.R. § 66.36(b)(12), JusticeTrax filed its protest with City Purchasing Agent Calvin Wells and City Attorney Arturo Michel on September 25, 2009. Exhibit G.2. JusticeTrax protested first and foremost that the award to Porter Lee Corp. was unlawful because its offer did not comply with the mandatory requirement of the RFP that the offered laboratory information management system be implemented and operated exclusively on a Microsoft SQL server. JusticeTrax further requested that the City provide JusticeTrax with the City's protest procedures so that JusticeTrax might know all of the City's permissible protest grounds.

Jo Wiginton, Esq., who is Contracts Division Chief of the Office of the City Attorney acknowledged the JusticeTrax protest, but did not provide JusticeTrax with any protest procedures governing City procurement. On October 2, 2009, JusticeTrax wrote Ms. Wiginton, arguing that, in this Federally funded procurement, the City was required to adhere to Federal procurement precedent mandating compliance with the evaluation criteria and technical specifications stated in the solicitation and citing *Radix II, Inc.*, Comp. Gen. Dec. B-184913, 76-1 CPD 37 (1976), and *Isometrics, Inc. v. United States*, 5 Ct. Cl. 420 (1984) ("disparate or unequal treatment of similarly situated offerors justif[ies] preliminary injunctive relief in favor of plaintiff"). Exhibit G.3.

Thereafter, Ms. Wiginton invited JusticeTrax to submit any further materials to support its protest, but again the Office of City Attorney did not provide JusticeTrax with any protest

**SALE & QUINN, P.C.**

Via Fax 202-514-3456 and US. Mail

Martin U. Onwu, Esq.

February 1, 2010

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procedures applicable to City procurement. On October 7, 2009, JusticeTrax made the detailed submission in Exhibit G.4 citing the many mandatory provisions of the solicitation requiring LIMS implementation on a SQL server and citing long-held principles of Federal procurement law that “[i]n evaluating expected performance, agencies must apply technical standards equally.” *RMI, Inc.*, Comp. Gen. Dec. B-203652, 83-1 CPD ¶ 423 (1983), reconsid. denied, 84-1 CPD ¶ 630 (1984), citing *Signatron, Inc.*, 54 Comp. Gen. 530 (1974), 74-2 CPD ¶ 386; *Motorola Inc., Communications Group*, B-200822 (June 22, 1981), 81-1 CPD ¶ 514 (“[p]rotest is sustained where agency accepted proposal which did not conform with solicitation requirements in several significant respects”); accord, *Isometrics, Inc. v. United States*, 5 Ct. Cl. 420 (1984).

On October 13, 2009, JusticeTrax cited 28 C.F.R. § 66.36(b)(12) and again requested a copy of the City’s protest procedures. Exhibit G.5. JusticeTrax also emphasized that the City improperly gave the higher price evaluation rating (received in response to a formal information request) to Porter Lee for its more expensive noncompliant offer than the rating given to JusticeTrax for its less expensive compliant offer, and cited the provision of the solicitation requiring offerors to submit references for their software that would be supplied to the City pursuant to that solicitation. Because Porter Lee Corp. had never produced software compliant with mandatory technical requirements of the City’s solicitation, Porter Lee could not have provided the City with any performance-based references for that software.

On October 16, 2009, Ms. Wiginton invited a further submission from JusticeTrax. On October 20, 2009, JusticeTrax provided the Office of the City Attorney with correspondence citing the following eight violations of law in the City’s award to Porter Lee Corp.:

- (1) The City of Houston failed to adhere to its own mandatory specifications and requirements for implementation of the LIMS on a Microsoft SQL Platform.
- (2) In violation of its own mandatory specifications and requirements, the City of Houston allowed Porter Lee Corp. to implement LIMS on an Oracle Platform, with possible data conversion in the next year to the mandatory Microsoft SQL Platform at the sole discretion of the City, even though JusticeTrax and every other offeror was required to offer and to install LIMS on a Microsoft SQL server at the time of contract implementation.
- (3) The City of Houston violated its own mandatory specifications and requirements, requiring that each offeror submit technical references for the offered LIMS implementation on a Microsoft SQL Platform, by allowing Porter Lee Corp. to submit references for LIMS implemented on a non-compliant Oracle Platform.

**SALE & QUINN, P.C.**

Via Fax 202-514-3456 and US. Mail

Martin U. Onwu, Esq.

February 1, 2010

Page 4

- (4) The City of Houston violated the procedures of its evaluation and selection criteria by its failure to conduct negotiations with JusticeTrax, as a compliant offeror, and by conducting negotiations with non-compliant offeror Porter Lee Corp.
- (5) The City's award to Porter Lee Corp. violated the Federal requirement that "[g]rantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement." 28 C.F.R. § 6.36(b)(8). Porter Lee Corp. admittedly could not supply LIMS software implemented and operated on a Microsoft SQL server as required by the solicitation.
- (6) The City of Houston failed to comply with the Department of Justice grant requirement that "[g]rantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements" because the City has failed to adopt, to implement, or to provide JusticeTrax, Inc., with notice or copies of such protest procedures that would allow protest resolution. Indeed, communications from the Office of the City Attorney noted that the recommendation of that office is advisory, thereby demonstrating that the City has failed to adopt protest procedures allowing actual protest resolution.
- (7) As a Department of Justice grantee, the City's "procurements [must] conform to applicable Federal law and the standards identified," and the City was precluded from "arbitrary action in the procurement process." 28 C.F.R. § 66.36(c)(1)(vii). Under Federal law, Porter Lee Corp. had to be excluded from negotiations because its proposal is technically unacceptable. The City acted arbitrarily, fundamentally unfairly and in violation of law by selecting the offer of Porter Lee Corp. that failed to meet the most basic technical requirements and specifications, and by rejecting the JusticeTrax fully compliant, lower priced offer.
- (8) Award to JusticeTrax was compelled on its compliant offer that was \$41,111 less than the noncompliant offer of Porter Lee Corp.

Exhibit G.6.

On October 26, 2009, JusticeTrax sent correspondence to the Office of the City Attorney confirming that the City is in violation of the Federal requirement of 28 C.F.R. § 66.36(b)(12) that a Federal grantee shall have "protest procedures to handle and resolve disputes relating to their procurements," and stating that JusticeTrax would be required to protest to the Department of Justice unless the City established that it had an administrative remedy available to JusticeTrax. Exhibit G.6.

SALE & QUINN, P.C.

Via Fax 202-514-3456 and US. Mail

Martin U. Onwu, Esq.  
February 1, 2010  
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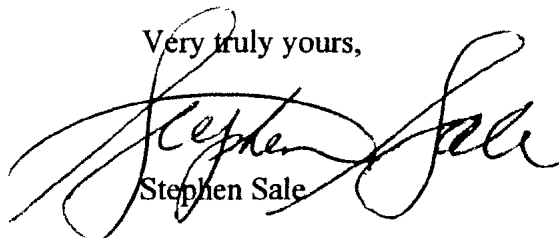
When JusticeTrax had received no response to its October 20 or 26, 2009 correspondence, JusticeTrax wrote the Office of the City Attorney on November 19, 2009, to advise that JusticeTrax would be required to file a protest with the Department of Justice also based on constructive denial of the JusticeTrax protest. Exhibit G.8.

On November 20, 2009, Ms. Wiginton provided JusticeTrax with the draft decision of the Office of the City Attorney. Exhibits G.9-G.10. The Office of the City Attorney acknowledged that "JusticeTrax, of course has the right to protest to the Justice Department," but the Office of City Attorney nonetheless tried to discourage the JusticeTrax protest to the Department of Justice as the City Attorney alleged that "our purchasing department has massive amounts of evaluation documents" that would support the City's decision. Exhibit G.9. The Office of the City Attorney thus acknowledged that those evaluation documents had not been provided to JusticeTrax either in response to its protest or information requests. This protest is necessary for review of the LIMS procurements process of the City of Houston.

In summary, JusticeTrax has used all reasonable means to exhaust administrative remedies before the City of Houston by presenting all arguments and supporting materials in response to the City's requests for JusticeTrax materials and argument. The City of Houston has not argued that JusticeTrax has failed to exhaust administrative remedies, nor could the City properly make such an argument. This protest is predicated upon the grounds of protest presented to the City of Houston under Federal law, and makes no protest argument to the Department of Justice that is based on state or local law.

Please advise me if you require any additional information to evaluate this protest or to confirm that JusticeTrax has exhausted all administrative remedies. If the Government were not to grant this protest summarily, then JusticeTrax requests access to the City's evaluation documents, an opportunity to respond to any written opposition filed by the City of Houston, and an oral hearing before your Office.

Very truly yours,



Stephen Sale

cc: Jo Wiginton, Esq.



AKIN GUMP  
STRAUSS HAUER & FELD LLP

Attorneys at Law

19  
**SCOTT M. HEIMBERG**  
202.887.4085/fax: 202.887.4288  
sheimberg@akingump.com

February 12, 2010

Via Facsimile and U.S. Mail

Martin U. Onwu  
Associate General Counsel  
U.S. Department of Justice  
Legal Division  
1100 Vermont Avenue, N.W.  
Washington, DC 20530

Re: Protest of JusticeTrax  
COPS Tech Grant#: 2005CKWX0224

Dear Mr. Onwu:

This firm represents the City of Houston (the City) in the protest filed by JusticeTrax, Inc. of the City's award of a contract to Porter Lee Corporation. In a January 14, 2010 letter, you asked whether JusticeTrax has exhausted all administrative remedies with the City pursuant to U.S. Department of Justice's Uniform Administrative Requirements for Grants and Cooperative Agreements (28 C.F.R. § 66.36(b)(12)). It has not.

The City's procedures for handling and resolving vendor disputes are governed by Section 551.041 of the Texas Government Code for notice and by Chapter 252 of the Texas Local Government Code for general purchasing and contracting procedures. In compliance with Section 551.041, the award of the contract to Porter Lee Corporation was posted on the City Council agenda of June 30, 2009, both at the entrance to City Hall and on the Internet. Under Texas law, such posting serves as notice to all interested parties of a contemplated government action. There is no requirement that the City notify potential vendors individually that it will award a contract to a competitor. However, in this case, an employee of the City's Strategic Purchasing Division did notify JusticeTrax on July 13, 2009 that the City had awarded the contract to Porter Lee.

The contract awarded to Porter Lee is for software to manage the City's police crime laboratory. This new software is urgently needed to address issues at the crime lab that have an impact on the health and safety of the City's residents. Because the City awarded the contract under a health and safety exemption from Texas procurement law procedures pursuant to section 252.022 of the Texas Local Government Code, the City is not bound by the procedures in that chapter. Nevertheless, the City's Code of Ordinances (Chapter 2, Article I, Section 2-2) allows appearances by disgruntled contractors (and other members of the public) to speak at City

A KIN G U M P  
S T R A U S S H A U E R & F E L D L L P

Attorneys at Law

Martin U. Onwu  
February 12, 2010  
Page 2

Council with regard to any matters germane and relevant to any subject matter of City affairs or business and seek redress. Requests to appear before Council must be made to the City Secretary, Anna Russell, and may be made in person or by mail, email, fax, or telephone. The City Secretary must receive requests before the scheduled time of commencement of the Council meeting session at which public appearances will be heard. Each speaker must provide his or her name, street address, mailing address, telephone number, and a brief description (not to exceed ten words) of the intended subject matter of his or her remarks. Speakers may reach the City Secretary by phone at (832) 393-1100, by e-mail at [citysecretary@cityofhouston.net](mailto:citysecretary@cityofhouston.net), or by mail at 900 Bagby Street, Houston, Texas 77002.

JusticeTrax did not avail itself of the opportunity to speak before the City Council and seek redress for any alleged impropriety by the City in awarding the contract to Porter Lee when it received notice on June 30, 2009. Additionally, by letter dated December 1, 2009, the City Attorney's Office responded to JusticeTrax outlining the procedures JusticeTrax could use for a reasonable opportunity to be heard by the City Council. Again, JusticeTrax chose not to request to appear before the City's governing body. It therefore has failed to exhaust its administrative remedies with the City.

Please be aware that this procurement of software to manage the City's police crime laboratory is critical to the City as part of its large-scale project to upgrade and improve the crime lab, which has been the source of numerous problems in the past. The contract was awarded to Porter Lee in July of 2009, without objection from JusticeTrax. Porter Lee has been working under the contract for almost six months; disrupting or discontinuing this work so late in contract performance would have a disastrous impact on the crime lab improvement project.

Sincerely,



Scott M. Heimberg







U.S. Department of Justice

Office of Community Oriented Policing Services (COPS)

20

Legal Division  
1100 Vermont Avenue, N.W.  
Washington, DC 20530  
(202) 514-3750  
(202) 514-3456 (fax)

March 12, 2010

COPY

**Via Facsimile and U.S. Mail**

Stephen Sale  
Sale & Quinn, P.C.  
910 16<sup>th</sup> Street, N.W.  
Fifth Floor  
Washington, DC 20006

**Request for Additional Information**  
**COPS Tech Grant #: 2005CKWX0224**  
**ORI #: TXHPD00**

Dear Mr. Sale:

Thank you for the information that you sent to the COPS Office Legal Division in response to our January 14, 2010 letter to you requesting information regarding whether JusticeTrax, Inc. (JusticeTrax) exhausted all administrative remedies with the City of Houston (City) before pursuing a protest with the COPS Office. In your response dated February 1, 2010, you indicate that JusticeTrax has exhausted all administrative remedies with the City before it pursued a protest with the COPS Office. In contrast, the City contends that JusticeTrax has not exhausted its administrative remedies with it. The purpose of this letter is to request additional information from JusticeTrax regarding whether JusticeTrax exhausted all administrative remedies with the City before it filed its protest with the COPS Office.

As previously indicated, under the U.S. Department of Justice's Uniform Administrative Requirements for Grants and Cooperative Agreements, "[a] protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency." 28 C.F.R. §66.36(b)(12). In your February 1<sup>st</sup> response, you state the following:

In summary, JusticeTrax has used all reasonable means to exhaust administrative remedies before the City of Houston by presenting all arguments and supporting materials in response to the City's requests for JusticeTrax materials and argument. The City of Houston has not argued that JusticeTrax has failed to exhaust administrative remedies, nor could

Mr. Sale  
March 12, 2010  
Page 2

the City properly make such an argument.  
In contrast, the City argues the following:

The City's procedures for handling and resolving vendor disputes are governed by Section 551.041 of the Texas Government Code for notice and by Chapter 252 of the Texas Local Government Code for general purchasing and contracting procedures.... Because the City awarded the contract under a health and safety exemption from Texas procurement law procedures pursuant to section 252.022 of the Texas Local Government Code, the City is not bound by the procedures in that chapter. Nevertheless, the City's Code of Ordinance (Chapter 2, Article 1, Section 2-2) allows appearances by disgruntled contractors (and other members of the public) to speak at City Council with regard to any matters germane and relevant to any subject matter of City affairs or business and seek redress. ... JusticeTrax did not avail itself of the opportunity to speak before the City Council and seek redress for any alleged impropriety by the City in awarding the contract to Porter Lee when it received notice on June 30, 2009. Additionally, by letter dated December 1, 2009, the City Attorney's Office responded to JusticeTrax outlining the procedures JusticeTrax could use for a reasonable opportunity to be heard by the City Council. Again, JusticeTrax chose not to request to appear before the City's governing body. It therefore failed to exhaust its administrative remedies with the City.

Please provide a response to the City's argument that JusticeTrax did not exhaust all of its administrative remedies with the City before pursuing a protest with the COPS Office to my attention at the letterhead address no later than 30 days following the date of this letter.

Please do not hesitate to contact me at (202) 514 8762, if you have any questions.

Sincerely,



Martin U. Onwu  
Associate General Counsel

cc: Scott M. Heimberg  
Akin Gum Straus Hauer & Feld LLP  
Robert S. Straus Building  
1333 New Hampshire Avenue, N.W.  
Washington D.C. 20036-1564  
*Attorneys for the City of Houston*

Raymond Reid  
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April 23, 2010

Via Fax 202-514-3456 and U.S. Mail

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Associate General Counsel  
Legal Division  
Office of Community Oriented Policing Services (COPS)  
U.S. Department of Justice  
1100 Vermont Avenue, N.W.  
Washington, DC 20530

*Re: Exhaustion of Administrative Remedies # 3; JusticeTrax, Inc., Protest of City of Houston, TX, Contract Award to Porter Lee Corp. under COPS Tech Grant # 2005CKWX0224, ORI # TXHPD00*

Dear Mr. Onwu:

This correspondence to the Department of Justice ("Department") addresses the specific issue whether JusticeTrax, Inc. had an administrative remedy that JusticeTrax could exhaust before the City Council of Houston with respect to denial of contract award to JusticeTrax on its contract proposal for forensic laboratory software.

The Department's exhaustion rule applicable to this protest is as follows:

Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. ...

28 C.F.R. § 66.36(b)(12),

The Charter of the City of Houston provides as follows:

Section 10. - Councilmen have Legislative Power Only.

All legislative powers of the City shall be vested, subject to the terms of this Charter and the Constitution of the State of Texas, in the City Council; and *no*

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Via Fax 202-514-3456 and US. Mail

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*Councilman shall exercise any administrative powers* or be the head of any department. (Added by amendment of August 15, 1942).

Exhibit K, Code of Ordinances of City of Houston, Charter, art. VII, § 11 (emphasis added). By definition, because Houston City Council Members are precluded by law from the exercise of any administrative powers, then no administrative remedy was available to JusticeTrax before the City Council. Any argument on behalf of the City of Houston that the City Council could provide an administrative remedy is effectively a claim that Members of the City Council would act *ultra vires* of the City's Charter by unlawfully exercising administrative powers to provide JusticeTrax

Thus, the webpage for the Houston City Council states as follows that the Council is a legislative body:

The City Council is the City's legislative body, with the power to enact and enforce all ordinances and resolutions. The City Council is the City's legislative body, with the power to enact and enforce all ordinances and resolutions.

Exhibit L, <http://www.houstontx.gov/council/index.html>

Conversely, the Charter of the City of Houston vests all administrative authority in the Mayor as follows:

**Section 7a. - ADDITIONAL POWERS AND DUTIES OF THE MAYOR.**

All the administrative work of the city government shall be under the control of the Mayor, and he shall devote his full time to the duties of his office. Any and all administrative duties conferred or imposed upon the City Manager by any article or articles, or section or sections of such article or articles of the Charter which was not amended or repealed at the Charter Amendment Election of 1947 shall hereafter be exercised and performed by the Mayor. Among others, the powers and duties of the Mayor shall be as follows:

1. To see that all laws and ordinances are enforced.
2. The Mayor shall have power to appoint, subject to confirmation by the City Council, such heads of departments in the administrative service of the City as may be created by ordinance, and the Mayor shall have the power to remove such heads of departments at any time he shall see fit without confirmation by the City Council. The Mayor shall also have the power to appoint and remove all other employees of the City, such appointments and removals to be subject, however, to the civil service provisions of the Charter.
3. *To exercise administrative control over all departments of the City.*

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4. It shall be the duty of the Mayor from time to time to make such recommendations to the Council as he may deem to be for the welfare of the City, and each year to submit to the Council the annual budget of the current expenses of the City in accordance with the requirements of the State Budget Law applicable to cities and towns.

5. To keep the Council at all times fully advised as to the financial condition and needs of the City.

The Council shall have authority to prescribe, by ordinance, rules and regulations governing the operation of each department, but the Mayor may prescribe such general rules and regulations as he may deem necessary or expedient for the general conduct of the administrative department, the heads of which are responsible to him. In order to expedite the work of any department, or to adequately administer an increase in the duties which may devolve on any department, or to cope with periodic or seasonal changes, the Mayor, subject to civil service regulations, is empowered to transfer employees temporarily from one department to perform similar duties in another such department. Likewise, each department head shall have power to transfer employees from one bureau or division to another within his department, subject to the rules and regulations of civil service. The Mayor may direct any such department or bureau to perform work for any other department or bureau.

In case of general conflagration, rioting, earthquakes, or other emergency menacing life and property, the Mayor shall be authorized to marshal all the forces of the different departments of the City for the maintenance of the general security, and shall have the power to deputize, or otherwise employ, such other persons as he may consider necessary for the purpose of protecting the City and its residents.

Neither the Council nor any of its committees or members shall in any manner interfere in the appointment of officers and employees in the departments of administrative service vested in the Mayor by this Charter, except that all department heads appointed by the Mayor shall be subject to confirmation by the City Council as herein provided. Except for the purpose of inquiry, the Council and its members shall deal with that part of the administrative service for which the Mayor is responsible solely through the Mayor, and neither the Council nor any member thereof shall give orders to any of the subordinates of the Mayor in said departments, either publicly or privately.

The Council, the Mayor or any person or committee authorized by either or both of them shall have power to inquire into the conduct of any department or office

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of the City and to make investigations as to City affairs. For that purpose the Council may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence material to said inquiry. The Council shall provide by ordinance penalties for contempt in refusing to obey any such subpoenas or failure to produce books, papers and other evidence, and shall have the power to punish any such contempt in the manner provided by ordinance.

The City Council shall require the Mayor, before entering upon the duties of his office, to execute a good and sufficient bond, with a surety company doing business in the State of Texas, and approved by the City Council, as surety thereon, said bond to be in such amount as the Council may demand payable to the City of Houston and conditioned for the faithful performance of the duties of his office, the premium for such bond to be paid by the City.

Exhibit M, Code of Ordinances of City of Houston, Charter, art. VI, § 7a (emphasis added). Although the Section of Houston's Charter on the Mayor's Powers and Duties recognizes legislative oversight by the City Council, the Council is given no administrative powers or duties.

In legal matters, the Mayor is represented by the City Attorney who is nominated by the Mayor and serves at the Mayor's pleasure as follows:

Sec. 2-257. - City attorney's office created; appointment and removal of city attorney.

There is hereby created the office of city attorney of the city. The holder of such office shall be appointed by the mayor and confirmed by the city council and may be removed from office by the mayor at any time.

Exhibit N, Code of Ordinances, ch. 2 § 2-257. Accordingly, JusticeTrax presented its protest to the Office of City Attorney, with a copy to the Director of the City Purchasing Office. The Office of City Attorney replied that the matter would be referred to the Bid Irregularities Committee. To this date, the City of Houston has never provided JusticeTrax with the City's "protest procedures to handle and resolve disputes relating to their procurements" as required by 28 C.F.R. § 66.36(b)(12), most likely because such procedures did not exist. The Office of the City Attorney nonetheless referred the protest to the Bid Irregularities Committee as the City's selected administrative remedy in the absence of protest procedures as required for a grantee like Houston by 28 C.F.R. § 66.36(b)(12). Thereafter, the City Attorney notified JusticeTrax that any administrative remedy for the protest was denied.

In a matter arising under Texas state law, judicial review was held to be appropriate as follows where the applicable statute failed to provide an administrative remedy:



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Although it determined that the act did not provide an *administrative* remedy for the firefighter or an appeal from the commission to district court, the supreme court held that the district court had general subject-matter jurisdiction to determine and enforce the statutory right because the legislature had not placed that jurisdiction in another tribunal. "Since the power to hear and determine that question in a judicial sense is not conferred by law upon some other tribunal," the court reasoned, "the district court has jurisdiction to decide the same from a preponderance of the evidence." 344 S.W.2d at 161 (*citing* Tex. Const. art. V, § 8).

Exhibit O, *City of Round Rock, Texas v. Whiteaker*, 241 S.W.3d 609, 632 (Tex. App. 2007) (emphasis in original).

The City's novel argument that a potential *legislative* remedy must be exhausted as an *administrative* remedy was rejected as follows in a case where that argument was made:

In this vein, it has been held that a legislative remedy is not a serviceable administrative remedy which must be exhausted prior to seeking a declaration of the unconstitutionality of a zoning ordinance. *G.S.T. v. Avon Lake* (1976), 48 Ohio St.2d 63, 65, 2 O.O.3d 217, 218, 357 N.E.2d 38, 40; *see, also, Moore v. Columbus* (Sept. 29, 1992), Franklin App. No. 92AP-121, unreported, 1992 WL 249867. Therefore, the defense of failure to exhaust administrative remedies is not available. *Id.*; *see, also, Driscoll, supra*.

Exhibit P, *Perrico Property Sys. v. City of Independence*, 96 Ohio App.3d 134, 644 N.E.2d 714 (Ohio App. 1994); *accord, Rinker v. City of Fairfax*, 238 Va. 24, 381 S.E.2d 215 (1989) (by "requiring [plaintiff] it to seek a legislative remedy," the trial court had improperly "determined that the exhaustion doctrine applied"); *Paris v. Mayfield Village*, 14 Ohio App.3d 450, 454, 472 N.E.2d 57 (1984) ("This court has previously determined that the exhaustion of available legislative remedies is not 'a condition precedent to maintaining a declaratory judgment action.' Consequently we find that the appellants' failure to avail themselves of the legislative remedy delineated by appellee's charter does not provide grounds for the dismissal of appellants' complaint.").

The City's own Charter estops the City from arguing that the Houston City Council has administrative authority or that the City Council can offer an administrative remedy. Similarly, The City's own Charter estops the City's Mayor, City Attorney and their counsel from arguing that any Houston governmental official or body, other than the Mayor and city administrative agencies reporting to the Mayor, can exercise administrative authority.

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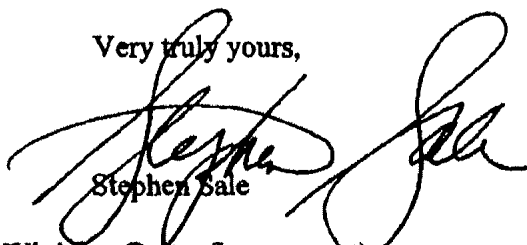
Via Fax 202-514-3456 and US. Mail

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April 23, 2010  
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In closing, we express our regret that, notwithstanding the repeated offers by JusticeTrax, the City of Houston has never been willing to discuss or to attempt to resolve the issues presented by JusticeTrax in relation to this procurement. Instead, the City has taken a legalistic route that continues to this date with its shameless argument that its City Council is an administrative agency that could grant an administrative remedy.

JusticeTrax respectfully requests that the Department join this protest on the merits.

Very truly yours,



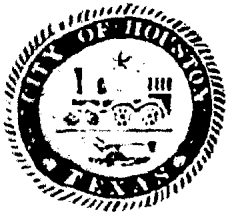
Stephen Sale

cc: Jo Wiginton, Esq. (Jo.Wiginton@cityofhouston.net)  
Office of the City Attorney  
City of Houston

Scott M. Heimberg, Esq.  
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June 18, 2010

Mr. Martin U. Onwu  
Associate General Counsel  
U.S. Department of Justice  
Legal Division  
1100 Vermont Avenue, N.W.  
Washington, DC20530

RE: Formal Protest by JusticeTrax, Inc.

Dear Mr. Onwu:

JusticeTrax, Inc. has filed with the U.S. Department of Justice a formal protest of the contract awarded by the City of Houston to Porter Lee Corporation under COPS Tech Grant #2005CKWXO224, ORI#TXHPD00. The City of Houston subsequently responded to the protest by correspondence dated January 14, 2010, apprising both the Department of Justice and the claimant that the claimant had failed to exhaust its administrative remedies by its failure to appear before the City Council of the City of Houston. Instead of availing itself of the opportunity to appear before City Council and present its grievance, JusticeTrax chose instead to claim that such an appearance would not constitute an administrative remedy based on a distorted and out of context interpretation of the City's Charter and other alleged legal principles that purportedly preclude the City Council from providing an administrative remedy. In making such an argument, Justice Trax ignores the basic principles of Texas local governance and confuses the concept of administrative remedies and the administration of a city.

The City of Houston is what is called a home rule city, empowered as such by Article XI, Section 5 of the Texas Constitution. As a home rule city, Houston may enact its own Charter and such laws and take such actions as it deems appropriate, provided such actions are not inconsistent with the general laws of the State of Texas or the Texas Constitution. *Interpretive Commentary, Art. XI, Sec. 5, Tex. Const.* See also *City of Houston v. State ex rel City of West University Place*, 176 SW 2d.928; *Barnett v. City of Plainview*, 848 SW 2d 334 (Tex. Civ. App, 7<sup>th</sup> Dist 1993), "The purpose of the home rule amendment was to bestow upon home rule cities full power of local self government." By contrast, other types of Texas cities, called general law cities, and indeed Texas counties, must generally look to state law for their authority to take action.

Mr. Martin U. Onwu  
June 18, 2010  
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There are three generally recognized forms of governance for home rule cities in Texas, the council-manager, strong mayor, and commission forms of government. West Municipal Law and Practice, sec. 3.03, 1999. Further discussion of these concepts is necessary only to understand that in each of these forms of city governance, the distinction is between the chief governing body of the city and the person or persons charged with the day-to-day administration of the city's affairs. For example, in a council-manager form of government, the chief governing body is the City Council, while the individual charged with the day-to-day administration of the city is a hired professional manager. The City of Houston has a strong mayor form of government, meaning in lieu of the city manager, an elected mayor, who is also a member of the governing body, serves in the capacity of the chief administrative officer. That means in Houston the Mayor is the individual who is in charge of the day-to-day administration of the city government.

As a consequence, JusticeTrax has devoted the majority of its letter to quoting sections of the City of Houston Charter dealing with the administration of the day-to-day activities of the City by the Mayor, and the limitations on the City Council to affect those day-to-day activities.<sup>1</sup> The Sections of the Charter cited by JusticeTrax in their correspondence have absolutely no bearing on the City Council's authority to consider an administrative remedy associated with the denial of a contract award.

Indeed, it is interesting that JusticeTrax makes a mighty effort to erroneously assert such limitations on the powers of the City Council by misconstruing portions of the City Charter, but fails (even though it obviously had such access to the City Charter) to advise the Department of Justice of the broad powers of governance granted to the City Council by Article II, Section 2(a) of the City Charter:

(a) The City Council shall have power to enact and to enforce all ordinances necessary to protect life, health and property; to prevent and summarily abate and remove nuisances; to preserve and promote good government, order, security, amusement, peace, quiet, education, prosperity and the general welfare of said City and its inhabitants; to exercise all the municipal powers necessary to the complete and efficient management and control of the municipal property and affairs of said city to effect the

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1. For example, JusticeTrax refers to Article VII, Sec. 10 of the City Charter as somehow limiting the Council in regard to administrative remedies. In fact, when read in the context of the Charter in its entirety, and the substantive part of the Section itself, Section 10 is merely a clear recitation that the City Council, and no other, is vested with the legislative powers of the City, in deference to the day-to-day administration of the City (hence, the reason for the language precluding a councilmember from being "the head of any department"). Similarly, Article VI, Section 7a, also cited by JusticeTrax, enumerates the powers of the Mayor to exercise day-to-day administration of the City; e.g., to appoint heads of departments (subject to Council confirmation), control the departments, enforce the laws, etc., without interference by Council in the departments of "administrative service" vested in the Mayor. None of these provisions precludes the City Council from considering administrative appeals. Reliance on the quoted language from the City's web page is likewise irrelevant. Finally, JusticeTrax's reliance on *City of Round Rock v. Whiteaker* is an absurdity. That case deals with complex civil service matters associated with Chapter 143 of the Texas Local Government Code, and is authority only for issues arising under Chapter 143.

Mr. Martin U. Onwu  
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efficient administration of the municipal government of said city; to exercise such powers as conduce to the public welfare, happiness and prosperity of said city and its inhabitants; and to enact and enforce any and all ordinances upon any subject; provided, that no ordinance shall be enacted inconsistent with the provisions of this charter; and, provided further, that the specification of particular powers shall never be construed as a limitation upon the general powers herein granted; it being intended by this charter to grant to and bestow upon the inhabitants of the City of Houston and the City of Houston full power of local self government, and it shall have and exercise all powers of municipal government not prohibited to it by its charter, or by the provisions of the Constitution of the State of Texas." (Emphasis added.)

Indeed, the Code of Ordinances of the City of Houston is replete with examples of appeals of administrative actions taken from decisions of the various boards, commissions, and committees of the city directly to the City Council. Examples of such Council appeals include reviews of decisions by the City General Appeals Board regarding interpretations of the Sign Code, Sec. 4604(e); denial of Dance Hall License, Sec 5-84, Code of Ordinances; airport ground transportation license appeals, Code Sec. 9-58; utility rate appeals, Code Sec. 37-75; development permit revocation appeals, Code Sec. 19-23 (g); and appeals of applications for manufactured home hardship permit appeals, Code Sec. 29-22, to name a few. For JusticeTrax to allege that the City Council does not act in the role of administrative review flies in the face of not only the Charter provisions cited herein, but is contrary to these numerous citations to administrative appeals and the long-established practice of the City Council to consider those appeals.

In addition, Article VII, Section 5 of the City Charter empowers the City Council to summon and compel the attendance of witnesses and the production of documents ". . . whenever it may be necessary for the more effective discharge of its duties . . . ." For what purpose would such powers be necessary if the Council's authority did not include conducting hearings as part of administrative reviews?

In sum, under state law and the City Charter the City Council is the sole governing body of the City of Houston and the final arbiter of all matters associated therewith. The buck stops there.

An ***administrative remedy*** in the context presented by JusticeTrax, generally speaking, consists of the opportunity to be heard by an entity with the authority to consider and grant relief, in this instance with regard to the denial of a contract. In other words, the administrative remedy is essentially an administrative appeal of the action of the entity with regard to the contract. As the City has noted in prior correspondence, the procurement process under state law which resulted in the contract award was subject to the health and safety exception to state bid law, and the appropriate process for such a procurement is by proposal. However, as part of the more formal competitive bid process, Section 15-3(c) of the City's Code of Ordinances provides as follows:

Mr. Martin U. Onwu  
June 18, 2010  
Page 4


(c) Any bidder who is dissatisfied with a ruling of the city secretary which disallows the reading of the bid may appeal such ruling by filing a written appeal with the office of the city secretary within seven (7) days from the date of such ruling. Such appeal may be delivered by the bidder or the bidder's representative, or it may be mailed, certified mail, return receipt requested, in which event it shall be deemed timely if postmarked within such seven-day period. **Any bidder dissatisfied with an award may appear before the city council to present pertinent evidence. On appeal to city council the appellant shall be given the opportunity to appear before council and present written or oral testimony with five-minute time limit unless otherwise directed by city council.** (Emphasis added.)

Although Section 15-3(c) applies only in the instance of the formal bid process, clearly the City Council is the appropriate body to consider any administrative review of procurement issues.

The City Council of the City of Houston, by state law and City Charter, is the only entity authorized to approve a contract. Correspondingly, the City Council, in accordance with state law and City Charter, authorized the award of a contract to Porter Lee Corporation. Finally, in accordance with state law and City Charter, the City Council is the only entity that can reverse that award, rescind the contract, or grant any other remedy associated with the contract.<sup>2</sup> Hence, JusticeTrax's failure, at its own choice, to appear before City Council to present its protest, constitutes a failure to exhaust its administrative remedies.

Although JusticeTrax has failed to avail itself of the opportunity to appear before City Council, the City of Houston is willing to comply with the Department of Justice in the resolution of this issue.

Very truly yours,

  
David M. Feldman  
City Attorney

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2. Regrettably, in spite of its extensive and absurd rhetoric in an attempt to argue the City Council cannot consider an administrative appeal, JusticeTrax fails to specify exactly the administrative remedy it believes is appropriate. As a consequence, the City is left to speculate what remedy JusticeTrax would seek.





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July 21, 2010

Via Fax 202-514-3456 and U.S. Mail

Martin U. Onwu, Esq.  
Associate General Counsel  
Legal Division  
Office of Community Oriented Policing Services (COPS)  
U.S. Department of Justice  
1100 Vermont Avenue, N.W.  
Washington, DC 20530

*Re: Reply to City of Houston June 18, 2010 Letter on Exhaustion of Administrative Remedies;  
JusticeTrax, Inc., Protest of City of Houston, TX, Contract Award to Porter Lee Corp.  
under COPS Tech Grant # 2005CKWX0224, ORI # TXHPD00*

Dear Mr. Onwu:

JusticeTrax hereby replies to the Houston City Attorney's letter of June 18, 2010 arguing that a bid protest is properly lodged with the Houston City Council under its procedure for rejected bidder to appear before the Council for a five-minute "gripe" session. This spurious argument was made by the City's attorneys only after the City Attorney's own office had decided the JusticeTrax protest without claim of any other further administrative remedy beyond this protest to the Department of Justice. The chronology is as follows:

1. July 7, 2009 City of Houston makes award to Porter Lee Corporation without individual notice to JusticeTrax or notice on the City's website.<sup>1</sup>
2. Sept. 18, 2009 JusticeTrax's COO Jeffrey Braucher inquires of Mr. Calvin Wells, City of Houston Purchasing Agent, and is advised of the July 2009 award to Porter Lee Corporation. Mr. Wells did not give JusticeTrax notice of any

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<sup>1</sup> JusticeTrax never received the letter produced by the City that is dated July 7, 2009. Virtually all governmental entities soliciting offers for forensic laboratory software from JusticeTrax advise JusticeTrax by certified mail that its proposal was not accepted. The City does not claim that is sent notice to JusticeTrax by certified mail, or by email even though the City had been in contact with JusticeTrax by email. The subsequently produced letter states no protest procedure.

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protest procedure, but Mr. Wells did provide Mr. Braucher with a copy of provisions of the State of Texas Local Government Code providing that a "a contract ... made without compliance" with the code "is void and the performance of the contract, including the payment of any money under the contract may be enjoined by ... any property tax paying resident of the municipality." V.T.C.A., Local Government Code §252.061. Ex. 1.

3. Sept. 25, 2009 JusticeTrax files its protest with City Purchasing Agent Calvin Wells and City Attorney Arturo Michel, and thereafter responded to requests and leave to file additional information with the Office of the City Attorney.
4. Sept. 29, 2009 JusticeTrax sends copies of the protest to every Member of the Houston City Council along with personalized letters to each Council Member.<sup>2</sup>
5. Sept. 25-Dec. 1, 2009 The Office of City Attorney refers the protest to its Bid Irregularity Committee which recites that it "investigated your client's complaint and consulted with the City employees who were involved" and then issued "Bid Opinion No. B20090005.
6. Nov. 20, 2009 Senior Assistant City Attorney Jo Wiginton sends an email to JusticeTrax counsel confirming that "JusticeTrax, of course, has the right to protest to the Justice Department." Exhibit 2.

The most remarkable feature of the above process is that no one representing the City of Houston advised JusticeTrax that a 5-minute gripe session before the City Council is a mandatory administrative remedy. JusticeTrax does not make this point to accuse to representatives of the City of Houston of improper conduct. To the contrary, JusticeTrax is confident that the representatives of the City of Houston would be equally surprised that Houston's counsel in this protest would argue that a 5-minute gripe appearance before the City Council is a mandatory administrative remedy to protest contract award in a negotiated procurement.

1. Judicial Remedy Demonstrates the Absence of a Mandatory Administrative Remedy.

City Purchasing Agent Calvin Wells provided JusticeTrax with V.T.C.A., Local Government Code §252.061, confirming the City's position at the time that JusticeTrax had an immediate judicial remedy available. Exhibit 3. In turn, the City was simply relying on Texas

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<sup>2</sup> Not a single City Council Member granted JusticeTrax the favor of a reply. Needless to say, no City Council Member advised JusticeTrax that 5-minute gripe session before Council was an administrative remedy that JusticeTrax was required to exhaust.

**SALE & QUINN, P.C.**

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law that has been enforced judicially. In ordering entry of an injunction in *Cantu v. Rodriguez*, 376 S.W.2d 70 (Tex. Civ. App. 1964), the Court of Appeals cited *Adams v. McGill*, 146 S.W.2d 332 (Tex. Civ. App. 1940), *reh'g denied* (1941), for the proposition that the court had jurisdiction (as in *Cantu*) even though "there the proposed contract had been submitted for competitive bids and proper notice published."

This likewise is a competitive procurement. Texas law provides for a direct judicial challenge to a municipal contract award. Therefore, neither *Cantu* nor *Adam* mentions existence or exhaustion of any administrative remedy. Texas law provides absolutely no basis for the argument in this protest that a 5-minute gripe session before the City Council is a mandatory administrative remedy for an offeror rejected in a negotiated procurement.

2. Houston Concedes that the Ordinance Does Not Apply to Its Negotiated Procurement.

The City relies exclusively on its following ordinance to argue that JusticeTrax was required to appear before Council to exhaust an administrative remedy:

Any bidder who is dissatisfied with a ruling of the city secretary which disallows the reading of the bid may appeal such ruling by filing a written appeal with the office of the city secretary within seven (7) days from the date of such ruling. Such appeal may be delivered by the bidder or the bidder's representative, or it may be mailed, certified mail, return receipt requested, in which event it shall be deemed timely if postmarked within such seven-day period. Any bidder dissatisfied with an award may appear before the city council to present pertinent evidence. On appeal to city council the appellant shall be given the opportunity to appear before council and present written or oral testimony with five-minute time limit unless otherwise directed by city council.

City of Houston Ordinance § 15-3(c). The City Attorney concedes that its City ordinance at "Section 15-3(c) applies only in the instance of the formal bid process." This concession is compelled by clear language of the ordinance which begins that "[a]ny bidder who is dissatisfied with a ruling of the city secretary which disallows the reading of the bid may appeal such ruling by filing a written appeal with the office of the city secretary".

This was *not* an advertised procurement by sealed bid in response to an invitation for bids (IFB). Instead, the City engaged in a negotiated procurement (at least with awardee Porter Lee Corporation) in response to the City's request for proposals (RFP). Thus, as the City Attorney implicitly concedes, the ordinance has absolutely no application to either this negotiated procurement or this protest by JusticeTrax.

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3. Even in an IFB, City Council Appearance Is Not Mandatory.

This procurement was not a "formal bid process," but the language of the ordinance is not mandatory in any event, and instead states merely that "[a]ny bidder dissatisfied with an award *may* appear before the city council to present pertinent evidence [emphasis added]." The ordinance states neither that the bidder shall appear, nor that appearance is necessary to exhaust administrative remedies. As is clear from the following, Texas courts will not enforce a governmental claim of a mandatory administrative remedy without a clear statement of legislative intent:

[W]e are not to construe a statute creating an administrative remedy to deprive a person of a common-law remedy unless the statute "clearly or plainly" reflects the legislature's intent to supplant the common-law remedy with the statutory one.

*Apollo Enterprises, Inc. v. ScripNet, Inc.*, 301 S.W.3d 848, 860 (Tex. Ct. App.-Austin 2009), citing *Cash American Int'l, Inc. v. Bennett*, 35 S.W.3d 12, 15-17 (Tex. 2000). Because the ordinance fails to make City Council appearance a mandatory administrative remedy to be exhausted even in an advertised procurement, City Council appearance could not, by any stretch of the imagination, be deemed a mandatory administrative remedy to be exhausted in this negotiated procurement.

As JusticeTrax demonstrated in its prior argument to the Department of Justice on exhaustion of administrative remedies, under Texas law the City Council is not an administrative agency with administrative remedies to be exhausted. The principle of Texas black-letter law has been stated as follows:

The word "agency" ordinarily refers to an administrative agency in the executive branch of the government. See, e.g., *Webster's Third New International Dictionary*<sup>40</sup> (Philip B. Gove ed. 1986) (agency is "department or other administrative unit of a government"). The definition does not include the governing body of a municipality engaged in legislative acts.

*Williamson Pointe Venture v. City of Austin*, 912 S.W.2d 340, 344 (Tex. Ct. App.-Austin 1995), *reh'g overruled* (1996). The Houston City Council is no more an "administrative agency" than the Austin City Council. Instead, both are their cities' legislative bodies.

Finally, the City cites some areas such as signage, dance hall licensing, airport transportation staging, development permits, and manufactured home hardship permits where the Council may review decisions by the City General Appeals Board. Those items generally relate

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to real estate use and zoning that are legislative matters under Texas law,<sup>3</sup> and thus are appropriate subjects for City Council legislative review. In the instances cited by the City, any administrative remedy would appear to relate to the City General Appeal Board.

The City has no protest or other procedures specifying appeal to the City General Appeals Board or anywhere else for a negotiated procurement such as this. The City has utterly failed to adopt protest regulations for Department of Justice funded procurement as required by the Department's regulations. The City's failure to adopt and to apply protest regulations violates the Department's regulations governing procurements funded by grant from the Department.

4. Conclusion.

The City has necessarily conceded that its ordinance § 15-3(c) does not apply to a negotiated procurement such as this. Accordingly, the City's exhaustion argument was nothing more than a "red herring" that the City used to delay this protest for many months. The City's ultimate purpose in making this spurious argument is obvious. The City is utterly devoid of a defense on the merits to this protest.

Because the City has failed to defend this protest on the merits, and because its argument about exhaustion of administrative remedy in a 5-minute gripe session before the City Council is specious and presented for the purpose of interposing delay, JusticeTrax respectfully requests that its protest be granted by the Department of Justice and that the Department of Justice rescind its grant to the City of Houston unless the City concludes immediate corrective action by award of this contract to JusticeTrax as the highest-ranked offeror eligible for award.

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<sup>3</sup> See *Davis. v. City of Abilene*, 250 S.W.2d 685, 687 (Tex. Civ. App.-Eastland 1952), *reh'g denied* (legislative body of city has power to regulate use of land within the municipality); *Texas Consol. Theatres, Inc. v. Pittilo*, 204 S.W.2d 396, 398 (Tex. Civ. App.-Waco 1947) (legislative body of city regulates and restricts the use of buildings or land).

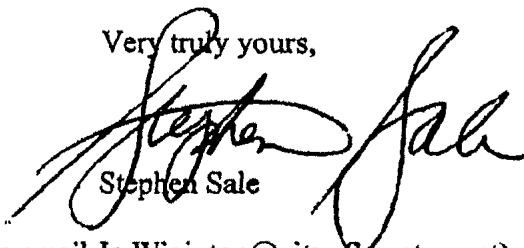
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Because JusticeTrax had a higher technical rating and offered a lower price than awardee Porter Lee Corporation for completely compliant software (in relation to Porter Lee's accepted non-compliant software), and because JusticeTrax software is successfully operated by Harris County with which the City of Houston engages in the most extensive law enforcement cooperation, such corrective action is just and in the public interest, and will preserve the grant to the City of Houston to implement this needed forensic laboratory software.

Very truly yours,



Stephen Sale

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LOCAL GOVERNMENT CODE  
CHAPTER 252. PURCHASING AND CONTRACTING AUTHORITY OF  
MUNICIPALITIES

**EXHIBIT 1**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 252.001. DEFINITIONS. In this chapter:

(1) "Bond funds" includes money in the treasury received from the sale of bonds and includes the proceeds of bonds that have been voted but have not been issued and delivered.

(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" includes money in the treasury, taxes in the process of being collected in the current tax year, and all other revenue that may be anticipated with reasonable certainty in the current tax year.

(4) "High technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications equipment and radio and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Planning services" means services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

(6) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Time warrant" includes any warrant issued by a municipality that is not payable from current funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1250, Sec. 2, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 207, Sec. 1, eff. May 23, 1995.

Sec. 252.002. MUNICIPAL CHARTER CONTROLS IN CASE OF CONFLICT.

Any provision in the charter of a home-rule municipality that relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts and that is in conflict with this chapter controls over this chapter unless the governing body of the municipality elects to have this chapter supersede the charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 749, Sec. 5, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 7, eff. Sept. 1, 1993.

Sec. 252.003. APPLICATION OF OTHER LAW. The purchasing requirements of Section 361.426, Health and Safety Code, apply to municipal purchases made under this chapter.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 17, eff. Sept. 1, 1991.

SUBCHAPTER B. COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS  
REQUIRED

Sec. 252.021. COMPETITIVE REQUIREMENTS FOR CERTAIN PURCHASES.

(a) Before a municipality may enter into a contract that requires an expenditure of more than \$25,000 from one or more municipal funds, the municipality must:

(1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;

(2) use the reverse auction procedure, as defined by

Section 2155.062(d), Government Code, for purchasing; or  
(3) comply with a method described by Subchapter H, Chapter 271.

(b) Before a municipality with a population of less than 25,000 may enter into a contract for insurance that requires an expenditure of more than \$5,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding.

(c) A municipality may use the competitive sealed proposal procedure for high technology procurements and, in a municipality with a population of 25,000 or more, for the purchase of insurance.

(d) This chapter does not apply to the expenditure of municipal funds that are derived from an appropriation, loan, or grant received by a municipality from the federal or state government for conducting a community development program established under Chapter 373 if under the program items are purchased under the request-for-proposal process described by Section 252.042. A municipality using a request-for-proposal process under this subsection shall also comply with the requirements of Section 252.0215.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 56(b), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 749, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 11, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 45, Sec. 1, eff. May 5, 1995; Acts 1997, 75th Leg., ch. 790, Sec. 1, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 571, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 115, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 436, Sec. 2, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 436, Sec. 3, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 217, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 12.003, eff. Sept. 1, 2003.

Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making an expenditure of more than \$3,000 but less than \$25,000, shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the General Services Commission pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.

Added by Acts 1993, 73rd Leg., ch. 749, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.18, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 115, Sec. 2, eff. Sept. 1, 2001.

Sec. 252.022. GENERAL EXEMPTIONS. (a) This chapter does not apply to an expenditure for:

(1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

(3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(4) a procurement for personal, professional, or planning services;

(5) a procurement for work that is performed and paid for by the day as the work progresses;

(6) a purchase of land or a right-of-way;

(7) a procurement of items that are available from only one source, including:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;



(C) gas, water, and other utility services;  
(D) captive replacement parts or components for equipment;

(E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

(8) a purchase of rare books, papers, and other library materials for a public library;

(9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;

(10) a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

(11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;

(12) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

(D) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

(13) services performed by blind or severely disabled persons;

(14) goods purchased by a municipality for subsequent retail sale by the municipality; or

(15) electricity.

(b) This chapter does not apply to bonds or warrants issued under Subchapter A, Chapter 421.

(c) This chapter does not apply to expenditures by a municipally owned electric or gas utility or unbundled divisions of a municipally owned electric or gas utility in connection with any purchases by the municipally owned utility or divisions of a municipally owned utility made in accordance with procurement procedures adopted by a resolution of the body vested with authority for management and operation of the municipally owned utility or its divisions that sets out the public purpose to be achieved by those procedures. This subsection may not be deemed to exempt a municipally owned utility from any other applicable statute, charter provision, or ordinance.

(d) This chapter does not apply to an expenditure described by Section 252.021(a) if the governing body of a municipality determines that a method described by Subchapter H, Chapter 271, provides a better value for the municipality with respect to that expenditure than the procedures described in this chapter and the municipality adopts and uses a method described in that subchapter with respect to that expenditure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 47(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1001, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 42, Sec. 1, eff. April 25, 1991; Acts 1993, 73rd Leg., ch. 749, Sec. 7, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 9, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 207, Sec. 2, eff. May 23, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 125, Sec. 1, eff. May 19, 1997; Acts 1997, 75th Leg., ch. 1370, Sec. 3, eff.

Sept. 1, 1997; Acts 1999, 76th Leg., ch. 405, Sec. 41, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1409, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.290, eff. Sept. 1, 2001.

Sec. 252.023. EXEMPTIONS FROM REFERENDUM PROVISIONS. The referendum provisions prescribed by Section 252.045 do not apply to expenditures that are payable:

- (1) from current funds;
- (2) from bond funds; or
- (3) by time warrants unless the amount of the time warrants issued by the municipality for all purposes during the current calendar year exceeds:
  - (A) \$7,500 if the municipality's population is 5,000 or less;
  - (B) \$10,000 if the municipality's population is 5,001 to 24,999;
  - (C) \$25,000 if the municipality's population is 25,001 to 49,999; or
  - (D) \$100,000 if the municipality's population is more than 50,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 109, Sec. 1, eff. Aug. 26, 1991.

Sec. 252.024. SELECTION OF INSURANCE BROKER. This chapter does not prevent a municipality from selecting a licensed insurance broker as the sole broker of record to obtain proposals and coverages for excess or surplus insurance that provides necessary coverage and adequate limits of coverage in structuring layered excess coverages in all areas of risk requiring special consideration, including public official liability, police professional liability, and airport liability. The broker may be retained only on a fee basis and may not receive any other remuneration from any other source.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER C. PROCEDURES

Sec. 252.041. NOTICE REQUIREMENT. (a) If the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud. If no newspaper is published in the municipality, the notice must be posted at the city hall for 14 days before the date set to publicly open the bids and read them aloud.

(b) If the competitive sealed proposals requirement applies to the contract, notice of the request for proposals must be given in the same manner as that prescribed by Subsection (a) for the notice for competitive sealed bids.

(c) If the contract is for the purchase of machinery for the construction or maintenance of roads or streets, the notice for bids and the order for purchase must include a general specification of the machinery desired.

(d) If the governing body of the municipality intends to issue time warrants for the payment of any part of the contract, the notice must include a statement of:

- (1) the governing body's intention;
  - (2) the maximum amount of the proposed time warrant indebtedness;
  - (3) the rate of interest the time warrants will bear;
- and
- (4) the maximum maturity date of the time warrants.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 109, Sec. 2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 749, Sec. 4, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 6, eff. Sept. 1, 1993.

Sec. 252.0415. PROCEDURES FOR ELECTRONIC BIDS OR PROPOSALS.

(a) A municipality may receive bids or proposals under this

chapter through electronic transmission if the governing body of the municipality adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

(b) Notwithstanding any other provision of this chapter, an electronic bid or proposal is not required to be sealed. A provision of this chapter that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 6, eff. Sept. 1, 2001.

Sec. 252.042. REQUESTS FOR PROPOSALS FOR CERTAIN PROCUREMENTS. (a) Requests for proposals made under Section 252.021 must solicit quotations and must specify the relative importance of price and other evaluation factors.

(b) Discussions in accordance with the terms of a request for proposals and with regulations adopted by the governing body of the municipality may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final offers, revisions may be permitted after submissions and before the award of the contract. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 56(c), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 45, Sec. 2, eff. May 5, 1995.

Sec. 252.043. AWARD OF CONTRACT. (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(b) In determining the best value for the municipality, the municipality may consider:

- (1) the purchase price;
- (2) the reputation of the bidder and of the bidder's goods or services;
- (3) the quality of the bidder's goods or services;
- (4) the extent to which the goods or services meet the municipality's needs;
- (5) the bidder's past relationship with the municipality;
- (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- (7) the total long-term cost to the municipality to acquire the bidder's goods or services; and
- (8) any relevant criteria specifically listed in the request for bids or proposals.

(c) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(d) The contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the contract for construction of:

- (1) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or
- (2) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

(e) If the competitive sealed bidding requirement applies to the contract for construction of a facility, as that term is defined by Section 271.111, the contract must be awarded to the lowest responsible bidder or awarded under the method described by Subchapter H, Chapter 271.

(f) The governing body may reject any and all bids.

(g) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. This chapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

(h) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.

(i) This section does not apply to a contract for professional services, as that term is defined by Section 2254.002, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1370, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1409, Sec. 3, eff. Sept. 1, 2001.

Sec. 252.0435. SAFETY RECORD OF BIDDER CONSIDERED. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

(1) the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder;

(2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and

(3) the determinations are not arbitrary and capricious. Added by Acts 1989, 71st Leg., ch. 1, Sec. 58(b), eff. Aug. 28, 1989.

Sec. 252.0436. CONTRACT WITH PERSON INDEBTED TO MUNICIPALITY.

(a) A municipality by ordinance may establish regulations permitting the municipality to refuse to enter into a contract or other transaction with a person indebted to the municipality.

(b) It is not a violation of this chapter for a municipality, under regulations adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the municipality.

(c) In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the municipality requiring approval by the governing body of the municipality.

Added by Acts 2003, 78th Leg., ch. 156, Sec. 1, eff. Sept. 1, 2003.

Sec. 252.044. CONTRACTOR'S BOND. (a) If the contract is for the construction of public works, the bidder to whom the contract is awarded must execute a good and sufficient bond. The bond must be:

(1) in the full amount of the contract price;

(2) conditioned that the contractor will faithfully perform the contract; and

(3) executed, in accordance with Chapter 2253, Government Code, by a surety company authorized to do business in the state.

(b) Repealed by Acts 1993, 73rd Leg., ch. 865, Sec. 2, eff. Sept. 1, 1993.

(c) The governing body of a home-rule municipality by ordinance may adopt the provisions of this section and Chapter 2253, Government Code, relating to contractors' surety bonds,

regardless of a conflicting provision in the municipality's charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 865, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 252.045. REFERENDUM ON ISSUANCE OF TIME WARRANTS. (a) If, by the time set for letting a contract under this chapter, a written petition with the required signatures is filed with the municipal secretary or clerk requesting the governing body of the municipality to order a referendum on the question of whether time warrants should be issued for an expenditure under the contract, the governing body may not authorize the expenditure or finally award the contract unless the question is approved by a majority of the votes received in the referendum. The petition must be signed by at least 10 percent of the qualified voters of the municipality whose names appear as property taxpayers on the municipality's most recently approved tax rolls.

(b) If a petition is not filed, the governing body may finally award the contract and issue the time warrants. In the absence of a petition, the governing body may, at its discretion, order the referendum.

(c) The provisions of Subtitles A and C, Title 9, Government Code, relating to elections for the issuance of municipal bonds and to the issuance, approval, registration, and sale of bonds govern the referendum and the time warrants to the extent those provisions are consistent with this chapter. However, the time warrants may mature over a term exceeding 40 years only if the governing body finds that the financial condition of the municipality will not permit payment of warrants issued for a term of 40 years or less from taxes that are imposed substantially uniformly during the term of the warrants.

(d) This section does not supersede any additional rights provided by the charter of a special-law municipality and relating to a referendum.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 38, eff. Sept. 1, 1999.

Sec. 252.046. CIRCUMSTANCES IN WHICH CURRENT FUNDS TO BE SET ASIDE. If an expenditure under the contract is payable by warrants on current funds, the governing body of the municipality by order shall set aside an amount of current funds that will discharge the principal and interest of the warrants. Those funds may not be used for any other purpose, and the warrants must be discharged from those funds and may not be refunded.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 252.047. PAYMENT METHOD FOR CERTAIN CONTRACTS. If the contract is for the construction of public works or for the purchase of materials, equipment, and supplies, the municipality may let the contract on a lump-sum basis or unit price basis as the governing body of the municipality determines. If the contract is let on a unit price basis, the information furnished to bidders must specify the approximate quantity needed, based on the best available information, but payment to the contractor must be based on the actual quantity constructed or supplied.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 252.048. CHANGE ORDERS. (a) If changes in plans or specifications are necessary after the performance of the contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the governing body of the municipality may approve change orders making the changes.

(b) The total contract price may not be increased because of the changes unless additional money for increased costs is appropriated for that purpose from available funds or is provided for by the authorization of the issuance of time warrants.

(c) If a change order involves a decrease or an increase of \$25,000 or less, the governing body may grant general authority to an administrative official of the municipality to approve the

change orders.

(d) The original contract price may not be increased under this section by more than 25 percent. The original contract price may not be decreased under this section by more than 25 percent without the consent of the contractor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 706, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 2, eff. Aug. 28, 1995.

Sec. 252.049. CONFIDENTIALITY OF INFORMATION IN BIDS OR PROPOSALS. (a) Trade secrets and confidential information in competitive sealed bids are not open for public inspection.

(b) If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 252.050. LEASE-PURCHASE OR INSTALLMENT PURCHASE OF REAL PROPERTY. (a) This section applies only to a lease-purchase or installment purchase of real property financed by the issuance of certificates of participation.

(b) The governing body of a municipality may not make an agreement under which the municipality is a lessee in a lease-purchase of real property or is a purchaser in an installment purchase of real property unless the governing body first obtains an appraisal by a qualified appraiser who is not an employee of the municipality. The purchase price may not exceed the fair market value of the real property, as shown by the appraisal.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 10, Sec. 2, eff. Oct. 18, 1989.

#### SUBCHAPTER D. ENFORCEMENT

Sec. 252.061. INJUNCTION. If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by any property tax paying resident of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 252.062. CRIMINAL PENALTIES. (a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.

(b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.

(c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by Subsection (a) or (b).

An offense under this subsection is a Class C misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1250, Sec. 3, eff. Sept. 1, 1989.

Sec. 252.063. REMOVAL; INELIGIBILITY. (a) The final conviction of a municipal officer or employee for an offense under Section 252.062(a) or (b) results in the immediate removal from office or employment of that person.

(b) For four years after the date of the final conviction, the removed officer or employee is ineligible:

(1) to be a candidate for or to be appointed or elected to a public office in this state;

(2) to be employed by the municipality with which the person served when the offense occurred; and

(3) to receive any compensation through a contract with that municipality.

(c) This section does not prohibit the payment of retirement

or workers' compensation benefits to the removed officer or  
employee.  
Added by Acts 1989, 71st Leg., ch. 1250, Sec. 4, eff. Sept. 1,  
1989.

Subj: Fwd: Protest of JusticeTrax, Inc.;  
Date: 11/20/2009 1:28:02 P.M. Pacific Standard Time  
From: SS CSQ  
To: [braucherj@justicetrax.com](mailto:braucherj@justicetrax.com)

**EXHIBIT 2**

From: Jo.Wiginton@cityofhouston.net  
To: SSSCSQ@aol.com  
Sent: 11/20/2009 12:41:01 P.M. Pacific Standard Time  
Subj: RE: Protest of JusticeTrax, Inc.;

From: Wiginton, Jo - LGL  
Sent: Friday, November 20, 2009 2:34 PM  
To: 'SSCSQ@aol.com'  
Subject: RE: Protest of JusticeTrax, Inc.;

Per our phone conversation of a few minutes ago - we are not refusing to respond to your well documented protest; unfortunately Joyce Hayes, the Purchasing Department representative who worked on this procurement, has been in the hospital for surgery and it has not been possible to get in touch with her.

As we discussed, I am sending you a draft of the bid committee opinion, which has not yet been approved or adopted by the City Attorney. We have tried to provide you with attorney general opinions (which can be found at <http://www.oag.state.tx.us/opin/>), statutory citations and case law showing that, under Texas law, a court would not be able to set aside this award or to direct that it be awarded to your client. JusticeTrax, of course, has the right to protest to the Justice Department; however, our purchasing department has massive amounts of evaluation documents that I believe will show that all of the proposers were given ample opportunities to compete for this award. So while I think that the City would ultimately be successful, the HPD will take a real hit to its efforts to restore public confidence in the integrity of its lab if it is slowed down in implementing this program due to a Justice Department protest.

I will send the two attachments later this afternoon when I get them scanned. Please feel free to call me if you have more questions or want to discuss this further. I expect that the signed original of this letter will be going out early next week, if it is approved by the City Attorney.

Jo Wiginton

Sr Assistant City Attorney

832-393-6435

Confidential/Privileged



**From:** SSCSQ@aol.com [mailto:SSCSQ@aol.com]  
**Sent:** Thursday, November 19, 2009 6:20 PM  
**To:** Arturo.Michel@cityofhouston.net; Jo.Wiginton@cityofhouston.net  
**Subject:** Protest of JusticeTrax, Inc.;

**LAW OFFICES**

**SALE & QUINN, P.C.**  
910 SIXTEENTH STREET, N.W., FIFTH FLOOR  
WASHINGTON, DC 20006-2992

(202) 833-4170

FAX (202) 887-5137

Email: [sscsq@aol.com](mailto:sscsq@aol.com)

Direct: 202-872-4713

November 19, 2009

Arturo Michel, Esq.

Jo Wiginton, Esq.

City Attorney

Contracts Division Chief

City of Houston

City of Houston Legal Department

1400 Lubbock St

P. O. Box 1562

Houston, TX 77002

Houston, TX 77251-1562

*Re: JusticeTrax, Inc., Protest of Award under RFP S37-T22904*

Dear Mr. Michel and Ms. Wiginton:

We comprehensively presented in good faith the protest of our client JusticeTrax, Inc., under RFP S37-T22904 to the City of Houston against contract award to Porter Lee Corporation because it failed to meet a mandatory technical solicitation requirement that bound both all offerors and the City. On November 9, 2009, Ms. Wiginton committed that the City would provide a decision by November 13, 2009, but no decision has been forthcoming.

Despite funding of the procurement with a United States Department of Justice grant, the City has failed to provide either any "protest procedures to handle and resolve disputes relating to their procurements" or any procedures to ensure that the City of Houston "shall in all instances disclose information regarding the protest to the awarding agency" as mandated by Department of Justice regulations at 28 C.F.R. § 66.36(b)(12). Because the Department of Justice requires first that "[a] protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency," 28 C.F.R. § 66.36 (b)(12), we were hopeful that the City of Houston would provide us with a reasoned decision along with, belatedly, its protest and notice procedures. Instead, our client is confronted with no response whatsoever representing the City's "constructive denial" of the protest while, contrary to all principles of law, the awardee continues to perform the contract based on a proposal ineligible for award.

Our client's experience with this protest unfortunately replicates the experience with the City Purchasing Agent, whose office promised my client discussions before award and notice of award, but instead failed to conduct negotiations or to notify our client of award despite its lower priced offer. We have offered to discuss settlement, but again we received no response from your office. Regretfully, our client's reasonable expectations again have been disappointed.

Very truly yours,

/ s /

Stephen Sale

**EXHIBIT 3**

LAW OFFICES  
**SALE & QUINN, P.C.**  
910 SIXTEENTH STREET, N.W., FIFTH FLOOR  
WASHINGTON, DC 20006-2992  
(202) 833-4170  
FAX (202) 887-5137

Email: [sscsq@aol.com](mailto:sscsq@aol.com)

Direct: 202-872-4713

September 25, 2009

Via Federal Express

Mr. Calvin D. Wells  
The City of Houston Purchasing Agent  
City Hall Building Concourse Level Suite B-113  
901 Bagby Street, Houston, TX 77002

Arturo G. Michel, Esq.  
City Attorney  
City of Houston Legal Department  
P.O. Box 1562  
Houston, TX 77251-1562

*Re: Protest of Award to Porter Lee Corporation in RFP S37-T22904*

Gentlemen:

On behalf of JusticeTrax, Inc. and a JusticeTrax employee who is a property tax paying resident of the City of Houston, we submit this protest of the award in the above procurement to in an effort to avert an action for injunctive relief. JusticeTrax submitted an offer in response to the above-referenced RFP. The City never posted award at its website nor was JusticeTrax ever notified as an unsuccessful offeror. JusticeTrax became aware of this award only last week.

RFP S37-T22904 at Statement of Work, Task 4, contained the mandatory software capabilities requirements for implementation of the LIMS software on a Microsoft SQL Platform. Exhibit 1. The software and contract implementation offered by Porter Lee Corporation fails to meet that mandatory software capabilities/implementation requirement. Exhibit 2. Instead, the Porter Lee software is on an Oracle platform. The award to Porter Lee gives it additional time to meet the Microsoft SQL Platform implementation requirement, even though such additional time to meet mandatory implementation requirements of the RFP was not given to any other offeror in response to the RFP. My client (a) advises that it is most unlikely that Porter Lee could or would completely reprogram its software from implementation on an Oracle platform to implementation on a Microsoft SQL Platform, and (b) fully expects that the mandatory implementation requirement of the RFP would continue to be waived for the exclusive benefit of Porter Lee for the duration of the contract.

The RFP provided neither the City of Houston nor any offeror with authority to waive that mandatory software capabilities/implementation requirements. To the contrary, on May 28,

SALE & QUINN, P.C.

Via Federal Express

Mr. Calvin Wells  
Arturo G. Michel, Esq.  
September 25, 2009  
Page 2

2008, the Strategic Purchasing Division of the Office of The City of Houston Purchasing Agent issued Letter of Clarification 1 containing Clarification Question and Answer 12.0 that expressly confirmed the mandatory nature of this RFP requirement as follows:

12.0 I s the MS SQL Server mandatory for the database platform.

**ANSWER: Yes this is mandatory**

Exhibit 3. The Strategic Purchasing Division subsequently issued Letter of Clarification 2 and Letter of Clarification 3, but neither of those letters changed the mandatory RFP requirement for the implementation of the LIMS software on a Microsoft SQL Platform.

JusticeTrax LIMS software meets the Microsoft SQL Platform capabilities/ implementation requirement and all other of the mandatory requirements of the RFP.

Because Porter Lee Corporation failed to meet Microsoft SQL Platform implementation requirement of the RFP, Porter Lee could not be determined "to be reasonably qualified for the award of the contract" as required by V.T.C.A., Local Government Code § 252.021(b), and City's award to Porter-Lee violates V.T.C.A., Local Government Code § 252.021(b). Moreover, in contravention of V.T.C.A., Local Government Code § 252.021(b), JusticeTrax was not "treated fairly and equally with respect to any opportunity for discussion and revision of proposals." The City conducted such discussions with Porter-Lee alone and in effect amended the mandatory software capabilities/implementation requirements of the Statement of Work for the exclusive benefit of Porter Lee without allowing JusticeTrax to amend or to supplement its proposal based on the amended Statement of Work.

During the exclusive discussions with Porter Lee, the City gave Porter Lee at least until July 31, 2010 to meet the mandatory Microsoft SQL Platform requirement of the RFP for contract implementation that JusticeTrax was required to meet at the time of its offer. JusticeTrax was totally denied an opportunity to respond to this amendment of the mandatory software capabilities/implementation requirements of the Statement of Work in the RFP.

For violation of V.T.C.A., Local Government Code § 252.021(b), the City is subject to entry of injunction voiding contract award as follows:

If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by:

(1) any property tax paying resident of the municipality... .

V.T.C.A., Local Government Code § 252.061. In ordering entry of an injunction in *Cantu v. Rodriguez*, 376 S.W.2d 70 (Tex. Civ. App. 1964), the court cited *Adams v. McGill*, 146 S.W.2d

SALE & QUINN, P.C.

Via Federal Express

Mr. Calvin Wells  
Arturo G. Michel, Esq.  
September 25, 2009  
Page 3

332 (Tex. Civ. App. 1940), *reh'g denied* (1941), as a case where the court had jurisdiction (as in *Cantu*) even though "there the proposed contract had been submitted for competitive bids and proper notice published." A court likewise would have jurisdiction here in an injunction action brought by a "property tax paying resident of the municipality" of Houston.

We are not aware of any grievance or protest procedures for a procurement conducted by your office. The Texas City Management Association publishes a "Handbook for City Administrators in Smaller Texas Cities (2002)." Chapter 4 of the Handbook, entitled "Public Purchasing and Materials Management," states that following for municipal procurement in Texas:

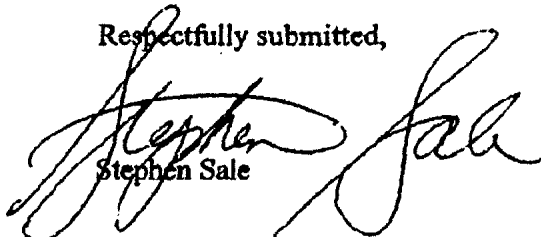
It is a recommended practice for a municipal purchasing operation to have a formal grievance or complaint process. It should instruct a supplier or any other interested party, the steps on how to file a protest or complaint of a procurement action. ... If the aggrieved party wishes to appeal the Purchasing Agent's determination, the appeals process should be spelled out.

Exhibit 4, Handbook for City Administrators in Smaller Texas Cities at 4-8. If the City of Houston has procedures as recommended above, please provide me with a copy or indicate a location where I can find those procedures.

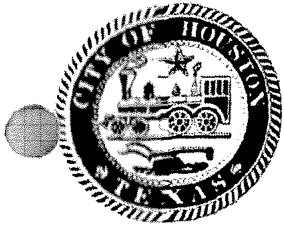
JusticeTrax regrets that it was not able to file this protest sooner. Consistent with "best practices" principles of transparency in government and public procurement, Ms. Joyce Hays of your office assured JusticeTrax on October 17, 2008, that "[i]f your company is not selected for contract negotiations when an award has been made by Council, you will be notified who the selected vendor is." Notwithstanding that assurance of notice to JusticeTrax of award in this procurement, your office failed either to notify JusticeTrax or to post notice of award at the internet website of your office. Because your office withheld notice of award by direct notification to JusticeTrax or website publication, JusticeTrax was unable to bring this protest before now.

JusticeTrax demands that the City cancel the award to Porter-Lee as unlawfully awarded due to its failure to meet Microsoft SQL Platform implementation requirement of the RFP, and to make award of the contract to JusticeTrax as a satisfying all mandatory requirements of the RFP. We request that you advise the undersigned within ten days of whether this protest will be entertained.

Respectfully submitted,

  
Stephen Sale





# CITY OF HOUSTON

24  
Annise D. Parker

Mayor

P.O. Box 1562  
Houston, Texas 77251-1562

Telephone – Dial 311  
www.houstontx.gov

July 28, 2010

Martin U. Onwu, Esq.  
Associate General Counsel  
Legal Division  
Office of Community Oriented Policing Services  
U.S. Department of Justice  
1100 Vermont Avenue, N.W.  
Washington, DC 20530

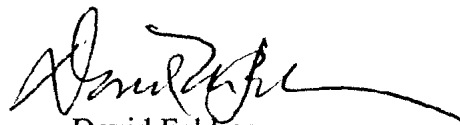
**VIA EMAIL AND REGULAR MAIL**

Re: City of Houston's Contract for LIMS Under Department of Justice Grant  
#2005CKWX0224, ORI # TXHPD00

Dear Mr. Onwu:

In response to a letter dated July 21, 2010 from Stephen Sale with Sale & Quinn, P.C., the City of Houston is extending an invitation to Mr. Sale to make a formal presentation before the Mayor and City Council members. It is the City's intention to provide Mr. Sale with the opportunity to express his interests and concerns on behalf of JusticeTrax, Inc. City Council meetings available are 2:00PM Tuesday, August 24, August 31, or September 15, 2010. We will be happy to provide Mr. Sale with technical support if needed to make his presentation to council members.

Sincerely,

  
David Feldman  
City Attorney

cc: Stephen Sale  
Sale & Quinn, P.C.  
910 Sixteenth Street, NW, Fifth Floor  
Washington, DC 20006-2992

Scott M. Heimberg, Esq.  
Akin Gump Hauer & Feld, LLP  
1333 New Hampshire Ave., NW  
Washington, DC 20036

Jo Wiginton  
Office of City Attorney  
City of Houston





25

LAW OFFICES  
SALE & QUINN, P.C.  
910 SIXTEENTH STREET, N.W., FIFTH FLOOR  
WASHINGTON, DC 20006-2992  
(202) 833-4170  
FAX (202) 887-5137

Email: SSSSQ@aol.com

Direct: 202-872-4713

July 30, 2010

Via Fax 202-514-3456 and U.S. Mail

Martin U. Onwu, Esq.  
Associate General Counsel  
Legal Division  
Office of Community Oriented Policing Services (COPS)  
U.S. Department of Justice  
1100 Vermont Avenue, N.W.  
Washington, DC 20530

Re: *Houston City Attorney Letter Dated July 28, 2010; Protest of City of Houston, TX,  
Contract Award to Porter Lee Corp. under RFP Funded by COPS Tech Grant #  
2005CKWX0224, ORI # TXHPD00*

Dear Mr. Onwu:

Protestor JusticeTrax, Inc. hereby responds as follows to the Houston City Attorney's letter of July 28, 2010 "inviting" JusticeTrax to a 5-minute session before the City Council:

1. The City of Houston has argued that the protest should be dismissed because JusticeTrax did not exhaust alleged administrative remedies by not appearing in a 5-minute session before the City Council. The City Attorney is now inviting JusticeTrax to engage in such a 5-minute exercise. The City made the award to Porter Lee Corporation more than one year ago. JusticeTrax sent its protest to the City Attorney within days of being informed of the Porter Lee award by the City Purchasing Agent. If a five-minute appearance before the City Council were actually deemed mandatory by the City, then the City Attorney or the City Purchasing Agent would have made such an invitation to JusticeTrax long before July 28, 2010.
2. The City Attorney now invites JusticeTrax to engage in a 5-minute City Council session so that the City both (i) can argue that it has protest procedures in place as required by 28 C.F.R. § 66.36(b)(12) providing that "[g]rantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements"; and (ii) can argue that this protest should be dismissed for failure to exhaust an administrative remedy. In other words, the City could be expected to

Via Fax 202-514-3456 and Hand Delivery

Martin U. Onwu, Esq.

July 30, 2010

Page 2

argue (a) that the appearance by JusticeTrax before the City Council constitutes an admission by JusticeTrax that it was required to exhaust the purported 5-minute remedy, and (b) that JusticeTrax is estopped to argue that 5-minute appearance before the City Council was not a mandatory. JusticeTrax is neither willing to make any implicit admission, nor to provide any basis for an estoppel argument.

3. In fact, it is the City Attorney who made the admission that the 5-minute session before the City Council is not required (a) by the City Attorney's consideration and decision of the protest by JusticeTrax; and (b) by the City Attorney's failure to advise JusticeTrax, until long after this protest was filed with the Department of Justice, of the City Attorney's contention that the 5-minute session before the City Council is a mandatory administrative remedy. It is the City Attorney who is estopped to argue that a 5-minute appearance before the City Council was a mandatory administrative remedy due to (i) the consideration and decision of the JusticeTrax proposal by the Office of the City Attorney; and (ii) the failure of the Office of the City Attorney to mention the existence of such a claimed remedy until this protest to the Department of Justice.
4. The City Attorney himself conceded in his June 18 letter that City of Houston ordinance "Section 15-3(c) applies only in the instance of the formal bid process." The City Attorney is no doubt well aware that neither JusticeTrax nor awarded offeror Porter Lee Corporation submitted a "bid," but instead submitted a proposal in response to request for proposals in the City's negotiated procurement. Thus, the City Attorney effectively conceded in his June 18 letter that Houston ordinance § 15-3(c) has absolutely no application here as this is not a case where, in the words of § 15-3(c), the City "disallows the reading of the bid." In light of the City Attorney's concession that § 15-3(c) provides for the 5-minute Council session only if a bid is not read during a "formal bid process" in an advertised procurement, and thus does not apply than a negotiated procurement like this, the instant invitation is farcical.
5. While a City Council invitation could conceivably be made for purposes of legislative oversight, the City Council could not provide an administrative remedy due to the following principle of Texas law: "The word 'agency' ordinarily refers to an administrative agency in the executive branch of the government. *See, e.g., Webster's Third New International Dictionary* 40 (Philip B. Gove ed. 1986) (agency is 'department or other administrative unit of a government'). The definition does not include the governing body of a municipality engaged in legislative acts." *Williamson Pointe Venture v. City of Austin*, 912 S.W.2d 340, 344 (Tex. Ct. App.-Austin 1995), *reh'g overruled* (1996). The City Council would have no need for a 5-minute session by JusticeTrax for legislative oversight purposes because the Council presumably would have access to the full record in this case from the City Attorney.

SALE & QUINN, P.C.

Via Fax 202-514-3456 and Hand Delivery

Martin U. Onwu, Esq.

July 30, 2010

Page 3

6. The argument that a 5-minute Council appearance is a mandatory administrative remedy was concocted by attorneys for the City only after the City Attorney denied the protest and JusticeTrax brought this protest to the Department of Justice. The City's *post hoc* attorney argument is a cynical ploy to deflect attention both from its failure to comply with 28 C.F.R. § 66.36(b)(12) providing that "[g]rantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements" and from the merits of this protest upon which the City has not even bothered to present a defense beyond exhaustion. That this is a ploy is demonstrated by the fact that the City Attorney's July 28 letter was sent not only to JusticeTrax (arguably as a settlement negotiation), but also to the Department of Justice, showing that the letter's purpose was for use to attempt to gain advantage for the City in the protest, and not to resolve the matter.
7. It would be inappropriate to discuss this pending protest in any forum other than before the Department of Justice where the protest is properly brought and under active consideration. JusticeTrax would have been pleased to discuss this protest with the City Council when the protest was pending before the City Attorney. For that purpose, JusticeTrax sent every Council Member a copy of the protest and a personalized letter on September 29, 2009. No City Council Member *ever* responded to JusticeTrax or otherwise expressed any interest whatsoever in this protest or in the defects in the underlying procurement and award. Any professed newfound interest on the part of the City is only for the purpose of seeking dismissal of this protest.

In closing, JusticeTrax is not willing to join the City in its instant exercise in gamesmanship by a 5-minute session before the Council. The City has delayed this protest long enough. JusticeTrax requests that the Department of Justice (A) accept the concession by the City Attorney that ordinance "Section 15-3(c) applies only in the instance of the formal bid process," and thus that § 15-3(c) has absolutely no application to this protest of an negotiated procurement; and (B) grant the protest of JusticeTrax.

Very truly yours,

  
Stephen Sale

cc: Jo Wiginton, Esq. (via email Jo.Wiginton@cityofhouston.net)  
Office of the City Attorney  
City of Houston

Scott M. Heimberg, Esq. (via email sheimberg@AKINGUMP.COM)  
Akin Gump Hauer & Feld LLP





U.S. Department of Justice

26

Office of Community Oriented Policing Services (COPS)

# Fax

To: Scott M. Heimberg

From: Martin Onwu

Fax: (202) 955-7623

Phone: (202) 514-8782

Phone: (202) 887-4085

Pages: 3

Date: 12/02/10

Re: Exhaustion of Administrative  
Remedies

Urgent     For Review     Please Comment     Please Reply     Please Recycle

• Commented

This fax transmittal is for the sole use of the intended recipient and may contain proprietary and/or confidential information, which may be privileged or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender via fax or phone and destroy the fax immediately.

Legal Division Two Constitution Square 145 N Street, N.E. Washington, D.C. 20530 (202) 514-3750 (202) 514-3456 (fax)



U.S. Department of Justice

Office of Community Oriented Policing Services (COPS)

*Legal Division  
Two Constitution Square  
145 N Street NE  
Washington, D.C. 20530  
202.514.3750 (telephone)  
202.514.3456 (facsimile)*

December 2, 2010

Via Facsimile and U.S. Mail

Stephen Sale  
Sale & Quinn, P.C.  
910 16<sup>th</sup> Street, N.W.  
Fifth Floor  
Washington, DC 20006

Exhaustion of Administrative Remedies  
COPS Tech Grant #: 2005CKWX0224  
ORI #: TXHPD00

Dear Mr. Sale:

I am writing you regarding the "protest" filed by the JusticeTrax, Inc ("JusticeTrax") against the City of Houston's procurement award to the Porter Lee Corporation pursuant to 28 CFR 66.36(b)(12). JusticeTrax alleges that the City of Houston ("City") violated Federal regulations in awarding the contract to the Porter Lee Corporation. As explained below, JusticeTrax has not demonstrated that it exhausted all administrative remedies with the City as required by Federal regulations before filing its "protest" action with the Office of Community Oriented Policing Services ("COPS Office"), U.S. Department of Justice. Thus, the COPS Office is unable to review this "protest" action until JusticeTrax complies with 28 C.F.R. §66.36(b)(12), which requires it to exhaust all administrative remedies with the City before pursuing its "protest" action with the COPS Office.

Under the U.S. Department of Justice's Uniform Administrative Requirements for Grants and Cooperative Agreements ("Regulations"), grantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal procurement law and standards identified in 28 CFR §66.36. 28 CFR §66.36(b)(1). In addition, the Regulations provide that grantees are required to have protest procedures to handle and resolve disputes relating to their procurements. 28 CFR §66.36(b)(12). Thus, a grantee is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into


Mr. Sale  
December 2, 2010  
Page 2

in support of an award, including resolving protests of awards with their local protest procedures. Furthermore, the Regulations provide "[a] protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency." (emphasis added). 28 C.F.R. §66.36(b)(12).

Based on the City's February 12, 2010 letter to the COPS Office, it is our understanding that the City's process for resolving procurement disputes is governed by Section 551.041 of the Texas Government Code for notice and by Chapter 252 of the Texas Government Code for general purchasing and contracting procedures. In addition, the City indicates that its Code of Ordinances (Chapter 2, Article 1, Section 2-2) allows unsuccessful bidders to speak at City Council "with regard to any matters germane and relevant to any subject matter of City affairs or business and seek redress." Based also on JusticeTrax's July 30, 2010, July 21, 2010, April 23, 2010 and April 11, 2010 letters and the City's July 28, 2010, June 18, 2010 and February 12, 2010 letters, it is our understanding that JusticeTrax has not spoken to the City Council and sought redress regarding the award of the contract to the Porter Lee Corporation. As indicated above, JusticeTrax is required to exhaust all administrative remedies with the City before pursuing a protest with the COPS Office. However, the record does not support that JusticeTrax has exhausted all administrative remedies with the City to resolve this matter as required by 28 C.F.R. §66.36(b)(12). Thus, we are unable to review this "protest" action.

Please do not hesitate to contact me at (202) 514 8762, if you have any questions.

Sincerely,

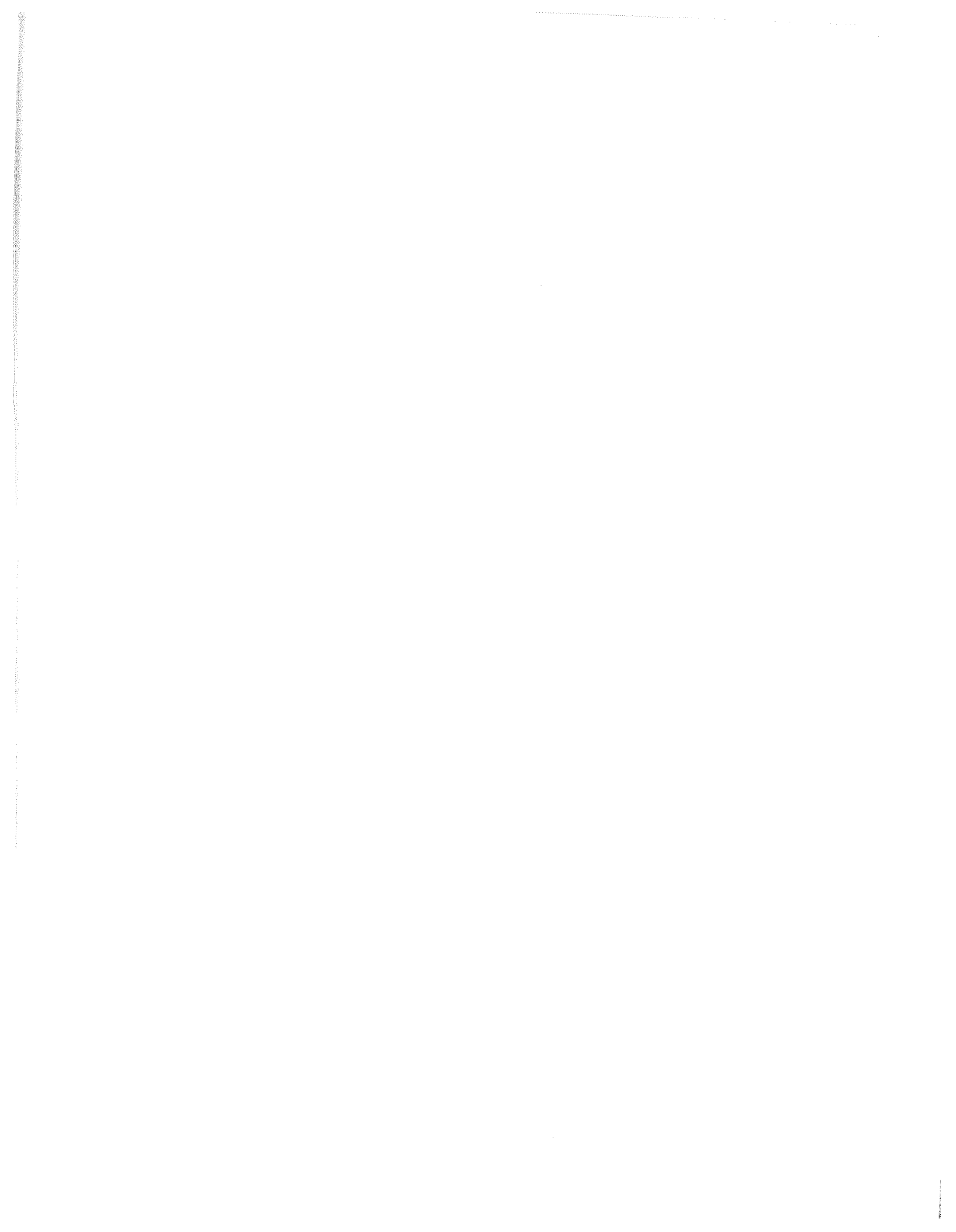


Martin U. Onwu  
Associate General Counsel

cc: Scott M. Heimberg  
Attorney for the City of Houston

Raymond Reid  
Grant Program Specialist  
COPS Grants Administration Division





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Pending an open records decision from the Texas Attorney General's Office, the procurement evaluation worksheets are available for viewing by Council Members or their staff in the City Attorney's Office.

To arrange a viewing please call Martin Buzak at 832-393-6431 or Jo Wiginton at 832-393-6435.

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8974**

**Subject:** Motion approving the sale of decommissioned firefighting bunker gear to the "Sister City" of Guayaquil, Ecuador.

Category #  
6

Page 1 of 1

Agenda Item

*2*

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

Terry Garrison  
Fire Chief  
Fire

**Origination Date**

February 07, 2011

**Agenda Date**

FEB 16 2011

**DIRECTOR'S SIGNATURE**

*[Handwritten Signature]*

**Council District(s) affected**  
All

**For additional information contact:**

Neil Depascal                      Phone: (713) 247-8721  
Beda Kent                              Phone: (713) 247-4049

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

**RECOMMENDATION: (Summary)**

Adopt a Motion approving the sale of decommissioned firefighting bunker gear to the "Sister City" of Guayaquil, Ecuador.

Revenue of \$1.00

**Finance Budget**

**SPECIFIC EXPLANATION:**

The Fire Chief recommends that City Council adopt a motion approving the sale of decommissioned firefighting bunker gear for the sum of \$1.00 to the "Sister City" of Guayaquil, Ecuador. The Texas Constitution authorizes a municipality to donate decommissioned bunker gear and fire hoses to a developing country.

Following the adoption of a motion, the Director of Finance will execute a Bill of Sale which will hold the City not responsible for any injury or damage to any person or property arising in connection with this equipment.

This sale will consist of 38 pallets of materials with an estimated salvage value of \$1,232.00. Price per pallet is based on previous auction sales conducted by the City of Houston Property Management Disposal Office.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*[Handwritten Signature]*

Structure Items For Donation  
Fiscal Year 2010

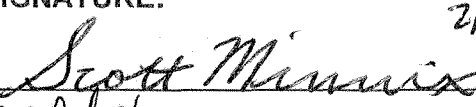
Pallets	Date	Coats	Pants	Hoods	Gloves	Leather BTs	Rubber Bts	Helmets	Suspenders	Weight	Boxes
1	8/24/2010	6	11	25	54	114	18	0	0	985	9
2	9/8/2010	0	0	0	0	41	5	102	0	620	11
3	9/10/2010	1	0	9	50	12	0	92	200	400	11
4	9/21/2010	23	26	42	66	20	3	52	300	530	12
5	9/28/2010	30	40	3	12	20	0	0	320	575	5
6	10/29/2010	41	45	39	108	37	5	0	2	990	12
7	11/4/2010	29	27	37	59	71	1	0	0	1280	12
8	11/16/2010	0	0	534	0	0	0	0	0	420	
9	11/30/2010	13	41	26	21	20	4	50	0	840	11
10	11/30/2010	49	39	19	7	41	4	0	0	898	12
11	12/20/2010	39	35	0	0	33	3	32	0	840	12
12	1/4/2011	0	0	34	24	0	86	34	0	1205	11
13	1/21/2011	19	33	25	60	98	6		250	1096	
14	1/27/2011	29	42	40	125	0	16	9	0	813	12
Total		279	339	833	586	507	151	51	1072	11492	15310

Hoses and Equipment Donation

Pallet #	4x100	4x50	6x15	3.5x100	3x50	2.5x50	1.75x50	1x50	Hard Suction
1							31		
2							22		
3	10								
4	10								
5							32		
6								2	
7	10								
8			12						
9	6								
10	8								
11	7								
12	10								
13	10								
14	6								
15	5								
16							21		
17	11								
18			1		3				
19	7								
20							36		
21					16				
22						20			
23						14			
24									8
<b>TOTAL</b>	105		13		19	34	142	2	8

<b>SUBJECT:</b> Accept Work ARC Abatement, Inc. Asbestos Abatement at 1200 Travis Parking Garage WBS No. G-000109-0002-4	Page 1 of 1	Agenda Item 3
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<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b>	<b>Agenda Date</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b> Scott Minnix <i>2/16/11</i> 	<b>Council District affected:</b> 1
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<b>For additional information contact:</b> Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023	<b>Date and identification of prior authorizing Council action:</b> Ordinance No. 10-0301 Dated: 04/21/2010
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**RECOMMENDATION:** Pass a motion approving the final contract amount of \$392,745.00 accept the work and authorize final payment.

<b>Amount and Source of Funding:</b> No Additional Funding Required.  <b>Previous Funding:</b> \$473,120.00 American Recovery and Reinvestment Act of 2009 (ARRA)	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:** The General Services Department recommends that City Council approve the final contract amount of \$392,745.00, or 4.90% over the original contract amount, accept the work and authorize final payment to ARC Abatement, Inc. for asbestos abatement at 1200 Travis Parking Garage for the Houston Police Department (HPD).

**PROJECT LOCATION::** 1200 Travis Street, Houston, Texas (Key Map No. 493-L)

**PROJECT DESCRIPTION:** The project completed asbestos abatement and disposed of all fireproof insulation and associated over-spray from Parking Levels B2, B3, 2, 3, 4, 5 and 6, from up-ramps on Levels 1, 4 and 6 and down-ramps on Levels 3, 6 and 7. The work also included disposal of asbestos containing materials generated as a result of all activities.


**CONTRACT COMPLETION AND COST:** The contractor completed the project within the original contract duration of 180 days. The final cost of the project, including Change Order 1 is \$392,745.00 an increase of \$18,345.00 over the original contract amount.

**PREVIOUS CHANGE ORDER:** Change Order 1 resulted from a request by HPD to have the contractor to perform the work on weekends instead of during the week as the contract was originally bid. This change in scope required an increased work force and additional shifts to complete the project on schedule.

*JLN*  
 SM:HB:JLN:GM:MC:Jfk

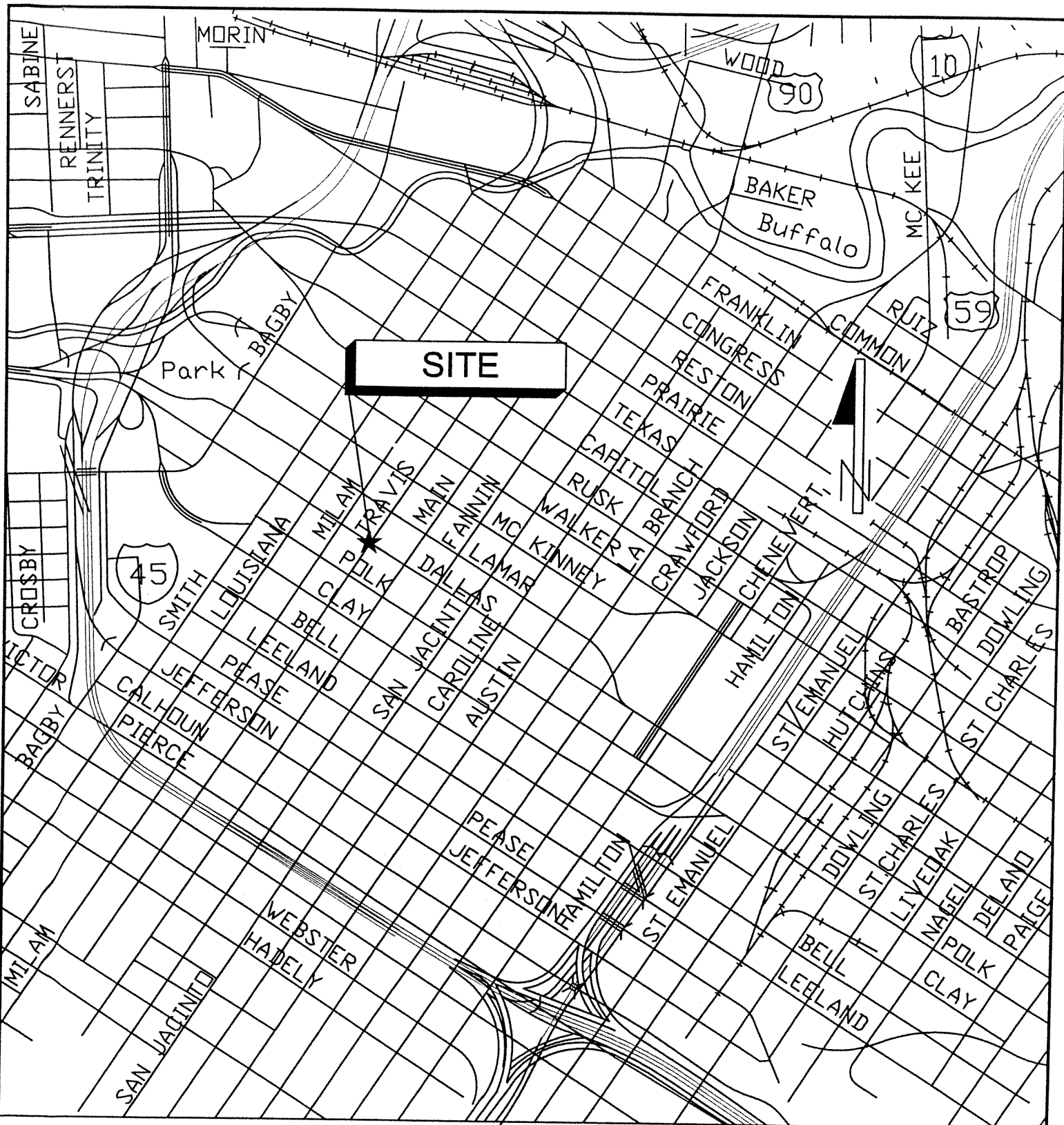
c: Marta Crinejo, Jacquelyn L. Nisby, Velma Laws, Calvin Curtis, Gabriel Mussio, Martha Leyva, File.

**REQUIRED AUTHORIZATION** CUIC ID # 25GM242

<b>General Services Department:</b>   Humberto Bautista, P.E. City Engineer		
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AMC

7)



PARKING GARAGE ASBESTOS ABATEMENT  
 1200 TRAVIS  
 HOUSTON, TX 77002

COUNCIL DISTRICT "I"

KEY MAP NO. 493 L

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Accept Work AIA General Contractors, Inc. Fuel System Upgrade at Solid Waste Maintenance Facilities. WBS No. L-0000NA-0008-4	Page 1 of 1	Agenda Item <b>4</b>
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<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b>	<b>Agenda Date</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b> Scott Minnix <i>Scott Minnix</i> 2/2/11	<b>Council Districts affected:</b> A, C, H
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<b>For additional information contact:</b> Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023	<b>Date and identification of prior authorizing Council action:</b> Ordinance No: 10-0644 Dated: 08-11-2010
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**RECOMMENDATION:** Pass a motion approving the final contract amount of \$ 137,167.60, accept the work and authorize final payment.

<b>Amount and Source of Funding:</b> No Additional Funding Required <b>Previous Funding:</b> \$140,629.65 Solid Waste Consolidated Construction Fund (4503)	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:** The General Services Department recommends that City Council approve the final contract amount of \$137,167.60 or 2.42% over the original contract amount, accept the work and authorize final payment to AIA General Contractors, Inc. for the fuel system upgrade at the Solid Waste Management Department maintenance facilities.

**PROJECT LOCATIONS:** 1245 Judiway, Houston, Texas (Key Map 452-P) – District A  
11500 Post Oak, Houston, Texas (Key Map 571-C-) – District C  
5617 Neches, Houston, Texas, (Key Map 454-S) – District H

**PROJECT DESCRIPTION:** The project removed and replaced all existing fuel dispensers and pumps with new fuel dispensers and pumps at each site to match the configuration of the original gasoline and diesel lines, and connected the dispensers to the fuel management system.

**CONTRACT COMPLETION AND COST:** The contractor completed the project within 90 days: the original contract duration of 30 days plus 60 days approved by Change Order 1. The final cost of the project including Change Order 1 is \$137,167.60, an increase of \$3,234.60 over the original contract amount.

**PREVIOUS CHANGE ORDER:** Change Order 1 installed and anchored 15 impact valve clamps under the new dispensers as required by Texas Commission on Environmental Quality (TCEQ), and granted a non-compensable time extension due to the delay in delivery of the dispensers.

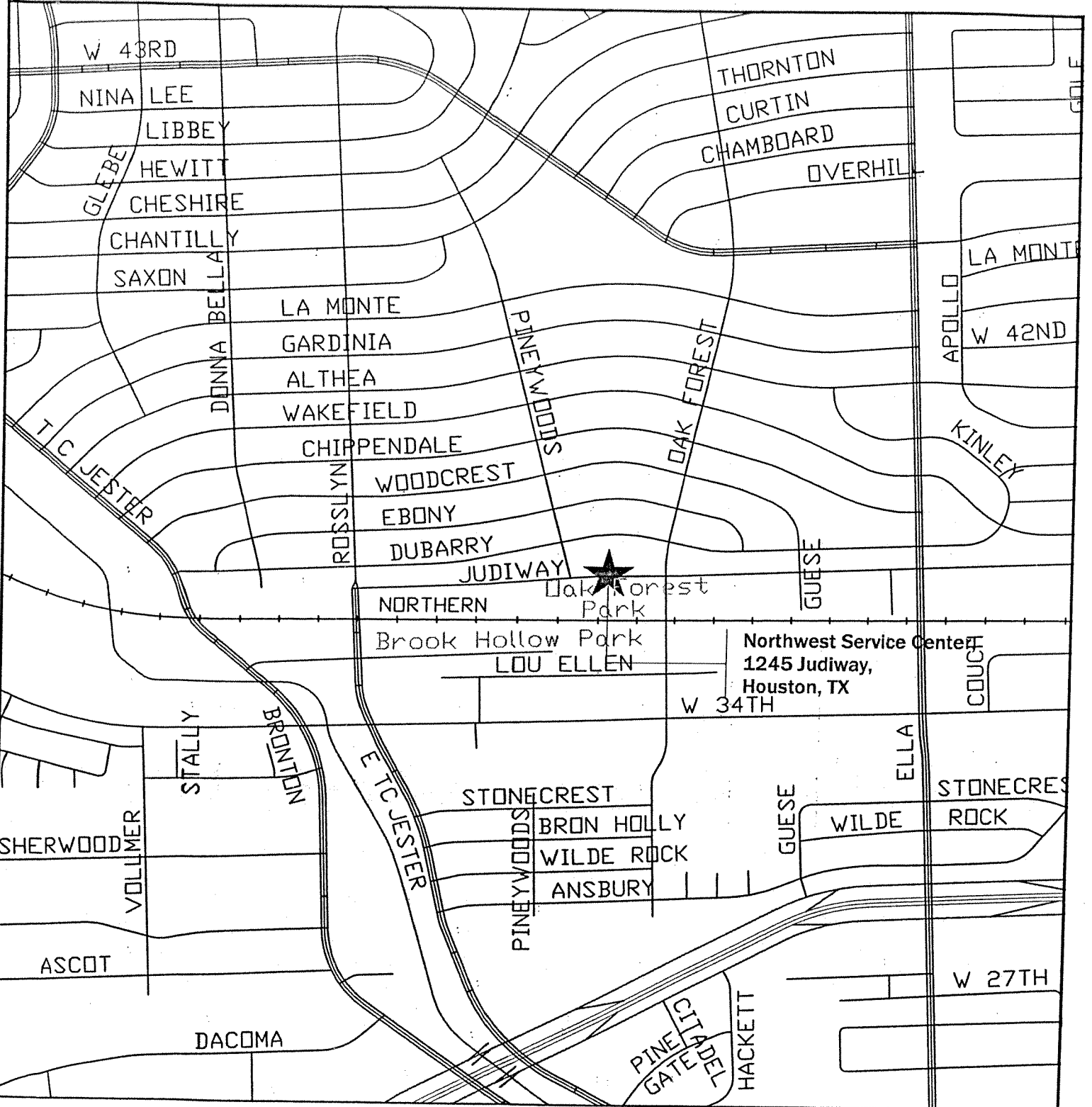
*JLN*  
SM:HB:JLN:GM:FK:fk

c: Marty Stein, Jacquelyn L. Nisby, Velma Laws, Calvin Curtis, Gary Readore, Gabriel Mussio, Martha Leyva, File

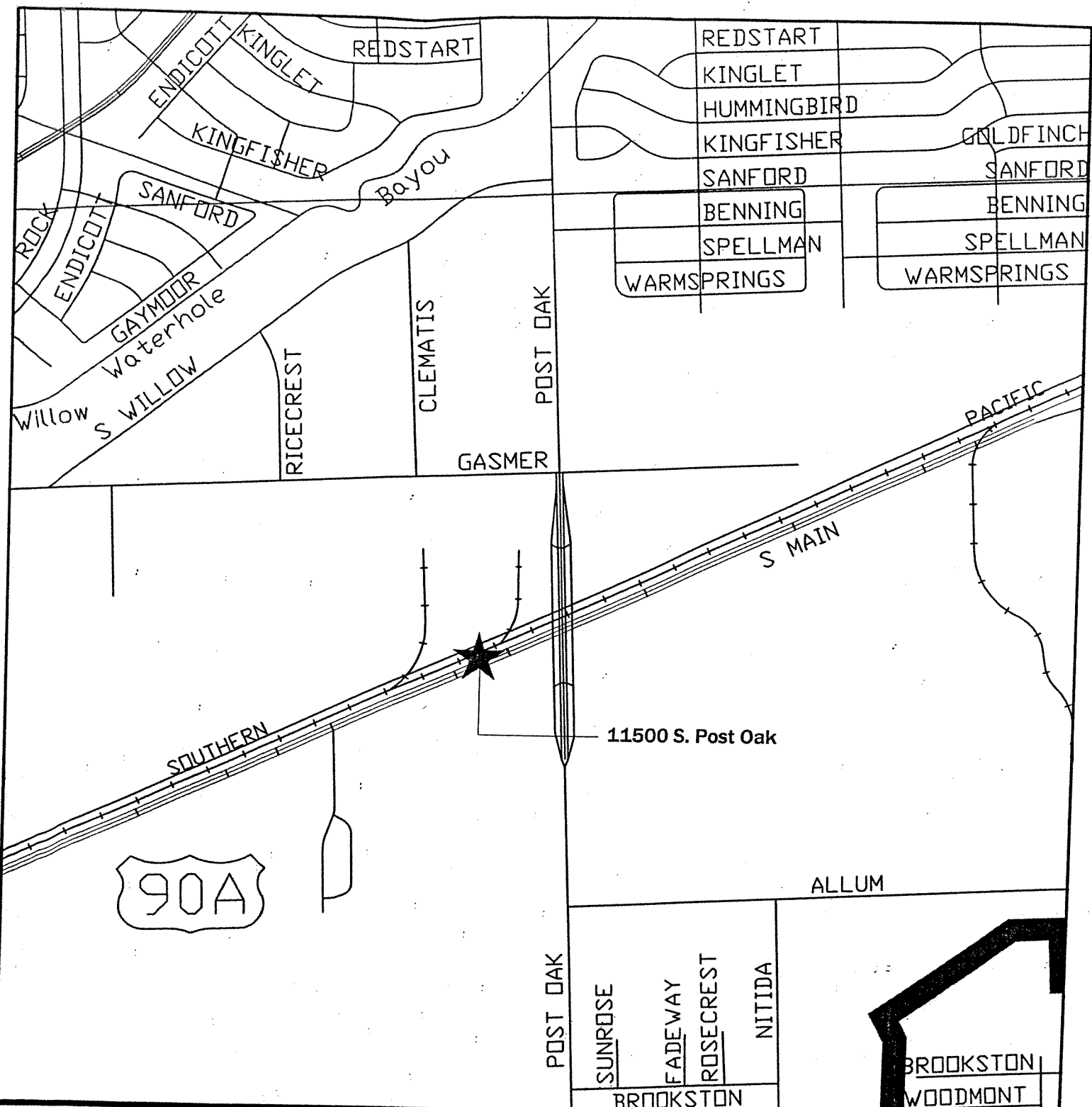
**REQUIRED AUTHORIZATION** CUIC ID # 25GM245

<b>General Services Department:</b> <i>[Signature]</i> Humberto Bautista, P.E. City Engineer	<b>Other Authorization:</b>	<b>Solid Waste Management Department:</b> <i>[Signature]</i> Harry J. Hayes Director
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**Fuel System Upgrade at**  
**Solid Waste Maintenance Facilities**  
**1245 Judiway**  
**Houston, TX 77018**



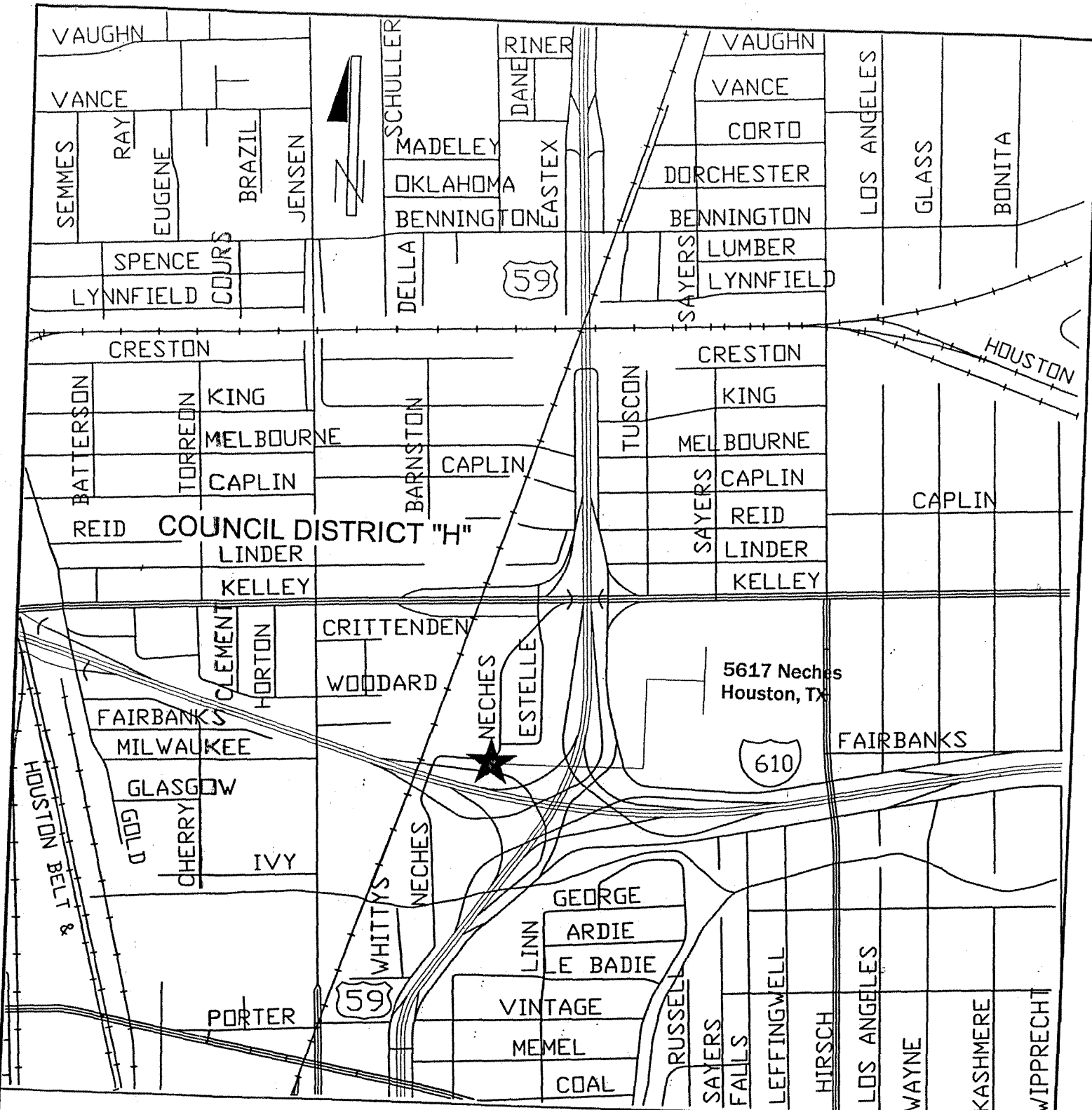
**Fuel System Upgrade at  
Solid Waste Maintenance Facilities**

11500 South Post Oak  
Houston, TX 77035

COUNCIL DISTRICT "C"

WBS No. L-0000NA-0006-4

KEY MAP NO. 571C



**Fuel System Upgrade at**  
**Solid Waste Maintenance Facilities**  
**5617 Neches**  
**Houston, TX 77026**

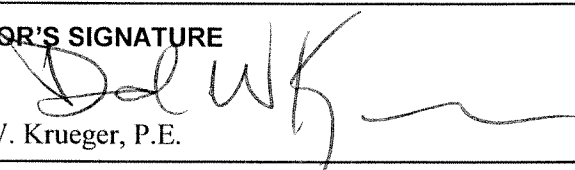
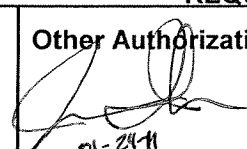
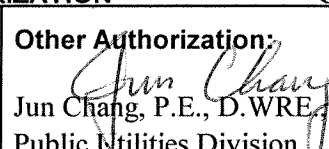
COUNCIL DISTRICT "H"

WBS No. L-0000NA-0006-4

KEYMAP No. 454S

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Accept Work for Sanitary Sewer Cleaning and Television Inspection In Support of Rehabilitation WBS# R-000266-0109-4		<b>Page</b> 1 of 1	<b>Agenda Item #</b> 5
<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering		<b>Origination Date</b>	<b>Agenda Date</b> FEB 16 2011
<b>DIRECTOR'S SIGNATURE</b>  Daniel W. Krueger, P.E.		<b>Council District affected:</b> A, B, C, D, F, G, H and I	
<b>For additional information contact:</b> Jason Iken, P.E. Interim Senior Assistant Director <b>Phone:</b> (713) 641-9191		<b>Date and identification of prior authorizing Council action:</b> Ordinance No. 2008-161, dated 02/27/2008	
<b>RECOMMENDATION: (Summary)</b> Pass a motion to approve the final contract amount of \$825,418.25, which is 1.49% over the original contract amount, accept the work, and authorize final payment.			
<b>Amount and Source of Funding:</b> No additional funding required. <i>M.P. 1/27/2011</i> Original appropriation of \$871,165.00 for construction and contingencies from Water and Sewer System Consolidated Construction Fund No. 8500.			
<b>SPECIFIC EXPLANATION:</b> <b>PROJECT NOTICE/JUSTIFICATION:</b> Under this project, the contractor provided sanitary sewer cleaning and television inspection in support of rehabilitation to deteriorated sewer collection systems throughout the City. <b>DESCRIPTION/SCOPE:</b> This project consisted of sanitary sewer cleaning and television inspection in support of rehabilitation. The project was awarded to Chief Solutions, Inc. with an original contract amount of \$813,300.00. The Notice to Proceed date was 05/27/2008 and the project had 540 calendar days for completion. <b>LOCATION:</b> The project was located at various locations within Council Districts A, B, C, D, F, G, H and I. <b>CONTRACT COMPLETION AND COST:</b> The contractor, Chief Solutions, Inc., has completed the work under the contract. The contract was completed within the contract time with an additional 90 days approved by Change Order No. 1. The final cost of the project is \$825,418.25, an increase of \$12,118.25 or 1.49% over the original contract amount. More cleaning and televising of sewers was needed than anticipated. <b>MWDBE PARTICIPATION:</b> No M/WDBE participation goal was established for this project.  DK DWK:JC:JI:DR:mf Attachments  c: Robert Gallegos			
<b>Project File 4277-35</b>		<b>REQUIRED AUTHORIZATION</b>	
<b>Finance Department</b>	<b>Other Authorization:</b>  01-24-11	<b>Other Authorization:</b>  Jun Chang, P.E., D.WRE, Deputy Director Public Utilities Division	

4277-35	Sanitary Sewer Cleaning and Television Inspection in Support of Rehabilitation			
WBS No. R-000266-0109-4	Chief Solutions, Inc.			
WORK ORDER	KEY MAP	Subdivision	BASIN	CD
5	452L	GARDEN OAKS	II062	A
1	493D,494A	RYON	II113	B
10	456A	VERDE FOREST	TW001	B
20	494B	CHAPMANS SEC. 3	IIP22	B
21	454M	PELHAM PLACE	IB064	B
24	494S	RANGER SSBB	SB137	B
25	452H,M	LOWELL ACRES	IIP39	B
29	493M,494J	BARNES & WETMORE	II254	B
15	494G	ENGLEWOOD	IB001	B,H
16	571C,D	POST OAK MANOR	SW006	C
32	531T,U	MEYERLAND	SW025	C
3	572L,G	ALMEDA PLAZA	ASP01	D
18	570Y,Z	BRIARBEND	GR003	D
23	572G,H	ALMEDA PLAZA	ASP01	D
26	572P	ALMEDA MANOR	WE004	D
27	571D	POST OAK VILLAGE	WE008	D
28	571P,Q	WINDSOR VILLAGE	WE014	D
17	493J,534A	UPHAM & RUSSELL , MEMORIAL HEIGHTS	SBP03,IIP21	D,H
2	529J	CROWN COLONY T/H	BW230	F
14	528R	DAIRY PROPERTY	BW241	F
31	529B,C	BRAYS VILLAGE	BW239	F
12	489R	BRIARLAKE PLAZA	WD091	G
4	413A,W	MITCHELL PLACE	II050	H
6	453L	STRATTON PLACE	II025	H
7	453Y	IRVINGTON	II135	H
8	453V	RYON	II138	H
9	453G	DAWNRIDGE	II030	H
19	494D	HOUSTON HARBOR	IB030	H
11	493Q	SSBB	II168	I
13	493Q	SSBB	IIP19	I
22	494H,L,M	DENVER	IB003	I
30	493Q	SSBB	IIP19	I

**REQUEST FOR COUNCIL ACTION**

SUBJECT: Parcel AY8-115; City of Houston v. Hong C. Hoang and Luyen T. Nguyen, et al., Cause No. 946,541; Homestead Road Grade Separation Project (Ley Road - Firnat Street) WBS/CIP No. N-000713-0001-3-01; Legal Department File No. 052-0900033-002.	Page 1 of 2	Agenda Item #  <b>6</b>
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FROM (Department or other point of origin): Legal Department - Real Estate Section David Feldman, City Attorney	Origination Date 12/06/10	Agenda Date FEB 16 2011
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DIRECTOR'S SIGNATURE: 	Council District affected: "B" Jarvis Johnson; Key Map#464H
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For additional information contact: Joseph N. Quintal <i>JNQ</i> Phone: 832.393.6286 (alternatively Ondrea U. Taylor 832.393.6280)	Date and identification of prior authorizing Council action: A.O. 2009-438, psd. 5/27/09 BAO# 2007-1067, psd. 09/19/07
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RECOMMENDATION: (Summary)  
 That the City Attorney be authorized, by Motion, to settle this case for the total consideration of \$145,000.00 and pay the City's appraisal cost of \$8,000.00 in this matter. Funding will be provided by a previously approved blanket Appropriation Ordinance.

Amount and Source of Funding:  
 \$88,000.00; No appropriation needed as funding will be provided by previously approved Appropriation Ordinance No. 2007-1067, psd. 09/19/07. Street & Bridge Consolidated Construction Fund *12/30/2010*

SPECIFIC EXPLANATION:

The Homestead Road Grade Separation Project (Ley - Firnat) will provide for right-of-way acquisition, engineering and construction of a grade separation over the Union Pacific Railroad Company. The project will reduce delays and improve traffic circulation on the major thoroughfare.

This eminent domain proceeding involves the acquisition of a permanent easement in and to 2,852 square feet of land out of a parent tract containing 54,600 square feet. The property is located at 8103 Homestead Road and is owned by Hong C. Hoang and Luyen T. Nguyen. The property is improved with two (2) independent structures; one being a 11,239 square-foot building being utilized as a family run grocery store and the second structure being a 1,800 square-foot, five (5) bay automobile tire/detailing service shop. The City's taking will vary in width from 12.1 feet down to 6.6 feet along the Homestead Road street frontage and will effect parking for the grocery store. The City's final offer to purchase the needed property was rejected by the landowners as being too low, but no counter-offer was submitted. Efforts by Public Works & Engineering to negotiate the purchase of the subject property were unsuccessful and the matter was referred to the Legal Department to initiate eminent domain proceedings to acquire the property. The Legal Department retained the same appraiser, utilized by Public Works & Engineering in making the City's final offer, to value the property and testify at the Special Commissioners' Hearing. The appraiser updated his appraisal report for the hearing, and presented the following conclusions and opinions of market value for the Special Commissioners consideration.

**City's Testimony Before the Special Commissioners:** \$47,120.00 (i.e. \$3.25 psf for the land being acquired; \$30,039.00 for the improvements thereon and \$7,812.00 for damage to the remainder) The damage figure compensates the landowners to replace the business signs and pipe bollards.

h:\mark\hoangnguyenrca2.wpd	<b>REQUIRED AUTHORIZATION</b>	
Other Authorization:	 Daniel Krueger, P.E. Director, PW&E	 Mark L. Loethen, P.E., CFM, PTOE Deputy Director, PDS Division

Date 12/06/10	SUBJECT: Parcel AY8-115; Hong C. Hoang & Luyen T. Nguyen; Cause No. 946,541; Homestead Road Grade Separation Project; LD No. 052-0900033-002	Originator's Initials JNQ/OUT	Page 2 of 2
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**Landowners' Testimony Before the Special Commissioners:** \$284,589.00 (i.e. \$3.50 psf for the land being acquired; \$31,567.00 for the improvements thereon; \$61,250.00 for damage to the remainder and \$181,790.00 as damages in the form of costs-to-cure) The landowners argued that the City taking will result in the loss of seven (7) parking spaces and effect internal traffic circulation within the parking lot for the grocery store . Their cost-to-cure figure includes the demolition and restoration costs associated with reducing the size of the grocery store to recapture the lost parking spaces and restoring the internal traffic circulation within the parking lot.

**Award of Special Commissioners:** \$65,000.00

The landowners' legal representative promptly filed Objections to the Award of Special Commissioners and the matter was placed on the Court's trial docket. The City deposited the amount of the Award of Special Commissioners into the registry of the Court on May 20, 2010 in order to gain physical possession of the needed property for construction purposes.

During the course of trial preparation, the parties were able to reconcile their differences and arrive at a proposed settlement, subject to City Council's approval, wherein the City would pay the total sum of \$145,000.00 as just compensation for the City's taking. The proposed settlement reflects an increase of \$80,000.00 over the amount of the Award of Special Commissioners and will be combined with the funds already on deposit in the registry of the Court. The proposed negotiated settlement is within the range of evidence developed during trial preparation and is consistent with the evidence and testimony in this case.

We recommend that the City Attorney be authorized, by Motion, to settle this case for the total consideration of \$145,000.00 and pay the City's appraisal costs of \$8,000.00 in this matter. Funding will be provided by a previously approved blanket Appropriation Ordinance.

A. POPP  
0578616  
07 466

JPP  
CAD,  
FOUND  
15-0467

SET 'X' IN CONC.

SOUTH HALL ST.  
(60' ROW)  
PER VOL. 22, PG. 53 H.C.M.R.

PELHAM PLACE SECOND SECTION  
VOL. 22, PG. 53, H.C.M.R.

BLOCK 16

HONG C. HOANG AND LUYEN T. NGUYEN  
H.C.C.F. NO. R296909  
MARCH 1, 1995  
073-110-016-0468

073-110-016-0467

HONG C. HOANG AND LUYEN T. NGUYEN  
H.C.C.F. NO. R296909  
MARCH 1, 1995  
073-110-016-0467

PELHAM PLACE SECOND SECTION  
VOL. 22, PG. 53, H.C.M.R.

WEYBURN ST.  
(60' ROW)  
PER VOL. 22, PG. 53 H.C.M.R.

JAMES H.C.C.F. NO. R296909  
MARCH 1, 1995  
073-110-016-0467

P.O.B.  
TRACT  
AY8-114

EXISTING R.O.W.  
N 05° 03' 33" W 104.16'  
S 12° 02' 20" E 260.00'  
N 02° 02' 44" W 155.99'

AY8-115

P.O.B.  
TRACT  
AY8-115

FOUND 7/4" PTP.  
BEARS 588° 05' W 0.27'

AY8-113

113  
CONC.

HALL ST.  
60' ROW  
23, PG. 42 H.C.M.R.

EXISTING R.O.W.  
S 00° 58' 06" W 103.09'  
N 02° 02' 20" W 260.00'  
S 02° 02' 44" E 157.05'

AY8-116

EXISTING R.O.W.  
L10  
L12  
L13  
L14  
L15  
L16  
L18  
T CONC. NAIL W/ WASHER  
IRON ST.  
ROW  
PG. 42 H.C.M.R.



**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8970**

**Subject:** Approve the Purchase of Jail Food Services for the Houston Police Department  
S11-E23886

Category #  
4

Page 1 of 1

Agenda Item

7

**FROM (Department or other point of origin):**  
Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**  
February 07, 2011

**Agenda Date**  
FEB 16 2011

**DIRECTOR'S SIGNATURE**  


**Council District(s) affected**  
E

**For additional information contact:**  
Joseph Fenninger *JMF 2/8/11* Phone: (713) 308-1708  
Douglas Moore Phone: (832) 393-8724

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

**RECOMMENDATION: (Summary)**  
Approve the purchase of jail food services in an amount not to exceed \$166,000.00 for the Houston Police Department.

Spending Authority: \$166,000.00

**Finance Budget**

\$166,000.00 - General Fund (1000)

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve the purchase of jail food services from Aramark Correctional Services, LLC in an amount not to exceed \$166,000.00 for the Houston Police Department (HPD). It is further requested that authorization be given to issue purchase orders, as necessary, for a period of approximately 90 days or until a new contract is awarded. This spending authority will allow the current contractor (Aramark Correctional Services, LLC) to continue to provide jail food services, at the two jail facilities located at 61 Riesner and 8400 Mykawa Road, until a new contract can be awarded. The Legal Department will be issuing a new solicitation for jail food services and is presently finalizing the best-value-bid document. The recommendation for award of the new contract will be presented to City Council within the next 90 days.

The scope of work requires the contractor to provide all personnel, management, supervision, transportation, equipment and incidentals necessary to provide quality jail food services for the HPD jail facilities, located at 61 Riesner and 8400 Mykawa Road. The contractor will be required to provide jail inmates with three dietary meals per day, seven days per week. Additionally, the contractor will be responsible for preparing meals on-site at the Central Jail Facility (CJF) located at 61 Riesner and to transport all prepared meals as necessary from CJF to jail inmates located at the 8400 Mykawa Road facility.

**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 has elected to pay into the Contractor Responsibility Fund in compliance with City policy.

The recommendation is made pursuant to Chapter 252, Section 252.022 (a) (2) of the Texas Local Government Code for exempted procurements.

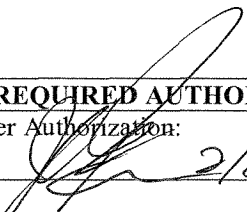
Buyer: Gloria King

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

 2/8/11



January 31, 2011

Timothy Crabb  
Senior Contract Administrator  
HPD Budget & Finance/Procurement  
City Hall Annex, Public Level  
900 Bagby Street  
Houston, TX 77002

Karen Russell  
Director of Client Development  
1688 Wallace Avenue #204  
San Francisco, CA 94124  
415-244-8474

Dear Tim,

It was a pleasure to hear from you today. Our partnership with the City of Houston Police Department is very important to us and as such, we are responding to your questions as follows:

1. The current contract expires on 2/28/11, would Aramark Correctional Services be interested in an Emergency Purchase order to cover the cost of jail food services once this contract expires?

Yes, ARAMARK is absolutely interested in an Emergency Purchase order to cover the cost of jail food services once the current contract expires.

2. Will Aramark Correctional Services agree to keep the current contract 4600002811 jail food services prices in place if an emergency purchase order is provided to cover a 6 month term?

Yes, ARAMARK agrees to keep the current contract 4600002811 jail food services prices in place if an Emergency Purchase order is provided to cover a 6 month term.

3. Would Aramark Correctional Services want to be paid in the same time frame currently in place or an accumulated total amount at the end of a 6 month period term?

ARAMARK would definitely want to be paid in the same time frame currently in place. Our current weekly invoicing practice will be kept in place under the emergency purchase order.

We look forward to our continued partnership with the City of Houston Police Department. If you need additional information, please let me know.

Regards,

*Karen Russell*

Karen Russell  
Director of Client Development



CELEBRATING OVER **30** YEARS  
OF SERVICE TO PUBLIC SAFETY

**REQUEST FOR COUNCIL ACTION**

RCA# 8956

TO: Mayor via City Secretary

**Subject:** Formal Bids Received for a Refurbished Twin-Engine Helicopter for the Houston Police Department  
S34-N23824

Category #  
4

Page 1 of 2

Agenda Item

8

**FROM (Department or other point of origin):**  
Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**  
February 07, 2011

**Agenda Date**  
FEB 16 2011

**DIRECTOR'S SIGNATURE**  


**Council District(s) affected**  
All

**For additional information contact:**  
Joseph Fenninger *JF 2/7/11* Phone: (713) 308-1708  
Ray DuRousseau Phone: (832) 393-8726

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

**RECOMMENDATION: (Summary)**  
Approve an award to Eagle Copters, Ltd. on its low bid in the amount of \$8,236,301.00 for a refurbished twin-engine helicopter for the Houston Police Department.

Award Amount: \$8,236,301.00

**Finance Budget**

\$7,685,651.00 - Port Security Grant Program (Fund 5030)  
\$ 550,650.00 - Homeland Security Grant Program (Fund 5030)  
\$8,236,301.00 - Total Funding

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve an award to Eagle Copters, Ltd. on its low bid in the amount of \$8,236,301.00 for a refurbished twin-engine helicopter for the Houston Police Department and that authorization be given to issue a purchase order. This twin-engine helicopter will be an addition to HPD's Air Support Division's fleet. Currently, the Division operates a fleet of light single-engine patrol aircraft that do not have the gross lift capacity necessary for complex tactical missions required to secure the Port of Houston. This helicopter addresses that gap in HPD's aviation fleet. Specifically, it will allow for rapid, vertical insertion of specialized teams (e.g. SWAT, bomb squad, HazMat) onto ships and allow for swift movement of such teams and their equipment into other incident areas as well. Additionally, the aircraft will provide an enhanced rescue capability for Fire and Police that the City does not currently possess.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Six prospective bidders downloaded the bid solicitation from SPD's e-bidding website and four bids were received as itemized below.

<u>Company</u>	<u>Amount</u>
1. Eagle Copters, Ltd.	\$ 8,236,301.00
2. Equipment Management Systems, LLC	\$ 8,380,969.00
3. United Rotorcraft Solutions	\$ 8,494,063.00
4. YAB Solutions, Inc.	\$12,067,141.30

This purchase consists of a refurbished twin-engine helicopter with existing installed equipment. The helicopter purchase price also includes new hardware, software and installation services related to a moving map system, Forward Looking Infra-Red (FLIR) imaging system, and a video downlink system required to allow the aircraft to be fully functional and compatible with existing departmental equipment. The refurbished helicopter will come with the remaining balance of the manufacturers' warranties on the helicopter and its

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*JF 2/7/11*

**NOT**

Date: 2/7/2011	Subject: Formal Bids Received for a Refurbished Twin-Engine Helicopter for the Houston Police Department S34-N23824	Originator's Initials LB	Page 2 of 2
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installed equipment and manufacturers' standard warranties for the new equipment. The life expectancy of this helicopter is 15 years.

This item was presented to the Public Safety and Homeland Security committee on Thursday, February 10, 2011 and no action was taken due to the lack of a quorum.

Buyer: Larry Benka/ PR No. 10122235

Attachment: MWBE Zero Percentage Goal Document Approved by Affirmative Action

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8929**

<b>Subject:</b> Emergency Replacement of a 16" Back Flow Valve and Water Line Repair for the Public Works & Engineering Department S12-E23843	Category # 4	Page 1 of 1	Agenda Item  <b>9+9A</b>
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<b>FROM (Department or other point of origin):</b> Calvin D. Wells City Purchasing Agent Administration & Regulatory Affairs Department	<b>Origination Date</b>  January 26, 2011	<b>Agenda Date</b>  FEB 1 8 2011
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<b>DIRECTOR'S SIGNATURE</b> 	<b>Council District(s) affected</b> F
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<b>For additional information contact:</b> David Guernsey      Phone: (832) 395-3640 Ray DuRousseau      Phone: (832) 393-8726	<b>Date and Identification of prior authorizing Council Action:</b>
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**RECOMMENDATION: (Summary)**  
Approve an ordinance authorizing the appropriation of \$73,803.90 out of the Water and Sewer System Consolidated Construction Fund (Fund 8500) and approve payment to Reytec Construction Resources, Inc. in the total amount of \$73,803.90 for the emergency replacement of a 16" back flow valve and water line repair for the Public Works & Engineering Department.

Payment Amount: \$73,803.90	<b>F &amp; A Budget</b> 
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\$73,803.90 - Water and Sewer System Consolidated Construction Fund (Fund 8500) WBS S-000019-0074-4

**SPECIFIC EXPLANATION:**  
The City Purchasing Agent recommends that City Council approve an ordinance authorizing the appropriation of \$73,803.90 out of the Water and Sewer System Consolidated Construction Fund (Fund 8500). It is further recommended that City Council approve payment to Reytec Construction Resources, Inc. in the total amount of \$73,803.90 for the emergency replacement of a 16" back flow valve and water line repair for the Public Works & Engineering Department.

On March 12, 2010, the 16" back flow valve, located beneath the 7400 block of South Dairy Ashford, failed allowing ground water to flood the intersection and deteriorate the roadway's sub-base material. The failure of the 16" back flow valve and the resulting water escaping the ground water collection line posed an immediate danger to public property and to the safety and health of citizens traversing the area. The Strategic Purchasing Division issued an emergency purchase order to address this emergency.

The scope of work required the contractor to provide all labor, materials, equipment, permits, insurance, bonds, supervision and transportation necessary to close the roadway and begin water removal and valve replacement. The contractor's responsibility included, but was not limited to, mobilizing and providing traffic control; protecting and securing existing trees and plants; removing and replacing concrete esplanades, curbs and asphalt pavement; trenching, excavating, saw cutting and welding the existing water collection line; installing a new 16" back flow valve; and restoring the disturbed property. The work included removal of all debris and excess project materials upon completion.

This recommendation is made pursuant to Chapter 252, Section 252.022 (a) (2) of the Texas Local Government Code for exempted procurements.

Buyer: Martin L. King

**REQUIRED AUTHORIZATION**

F&A Director:	Other Authorization:	Other Authorization: <b>NOT</b>
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TO: Mayor via City Secretary

**REQUEST FOR COUNCIL ACTION**

HCD11-06

**SUBJECT:** The Housing and Community Development Department recommends City Council's approval of an Ordinance approving an amendment to the Housing Opportunities for Persons with AIDS (HOPWA) Program Summary Budget for two program years, the 2008 and 2009 Consolidated Action Plans (Plan).

<b>Category #</b> 1,2	<b>Page</b> 1 of 2	<b>Agenda Item #</b> 10
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<b>FROM (Department or other point of origin):</b> Jim D. Noteware, Director Housing and Community Development Department	<b>Origination Date</b> January 14, 2011	<b>Agenda Date</b> FEB 18 2011
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<b>DIRECTOR'S SIGNATURE:</b> <i>Jim D. Noteware</i>	<b>Council District affected:</b> All
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<b>For additional information contact:</b> <b>Brenda Scott/Robert Bradford</b> Phone: 713-868-8484/ 713-868-8340	<b>Date and identification of prior authorizing Council action:</b> Ordinance No. 2008-385, Ordinance No. 2009-457; Ordinance No. 2008-1051; Ordinance No. 2009-364; Ordinance No. 2009-262; Ordinance No. 2009-420
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**RECOMMENDATION: (Summary)** The Housing and Community Development Department recommends City Council's approval of an Ordinance approving an amendment to the Housing Opportunities for Persons with AIDS (HOPWA) Program Summary Budget for two program years, the 2008 and 2009 Consolidated Action Plans (Plan). HCDD proposes the following adjustments; HOPWA 2008 Budget: (1) decrease line item Acquisition/Rehab/Conversion/Repairs/Lease in the amount of \$70, 815.25, (2) increase Technical Assistance/Housing Information/Resource Identification in the amount of \$70,815.25, (3) decrease Short-Term Rent, Mortgage and Utility Assistance in the amount of \$1,200,000.00, (4) increase Supportive Services in the amount of \$1,200,000.00, (5) decrease Project or Tenant Based Rental Assistance in the amount of \$700,000.00, and (6) increase Operating Costs in the amount of \$700,000.00. HOPWA 2009 Budget: (1) decrease line item Acquisition/Rehab/Conversion/Repairs/Lease in the amount of \$247,558.00, (2) increase Project or Tenant Based Rental Assistance in the amount of \$218,373.25, (3) increase Technical Assistance/Housing Information/Resource Identification in the amount of \$29,184.75, (4) decrease New Construction in the amount of \$350,000.00, and (5) increase Operating Costs in the amount of \$350,000.00.

<b>Amount of Funding:</b> N/A	<b>Finance Budget:</b>
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**SOURCE OF FUNDING**       General Fund       Grant Fund       Enterprise Fund

Other (Specify)


**SPECIFIC EXPLANATION:**

The Housing and Community Development Department recommends City Council's approval of an Ordinance amending the Housing Opportunities for Persons with AIDS (HOPWA) Projected Summary Budget under two program year budgets, the 2008 and 2009 Consolidated Action Plans, as amended. The details of the amendment are included in the attached Public Notices (Notices). The following is a recap of the Notices.

Activity	Budget Year	Decrease	Increase
Acquisition/Rehab/Conversion/Repairs/Lease	2008	\$ (70,815.25)	
Technical Assistance/Housing Information/Resource Identification	2008		\$ 70,815.25
Short-Term Rent, Mortgage and Utility Assistance	2008	\$ (1,200,000.00)	
Supportive Services	2008		\$ 1,200,000.00
Project or Tenant Based Rental Assistance	2008	\$ (700,000.00)	
Operating Costs	2008		\$ 700,000.00
		<b>\$ (1,970,815.25)</b>	<b>\$ 1,970,815.25</b>
Acquisition/Rehab/Conversion/Repairs/Lease	2009	\$ (247,558.00)	
Project or Tenant Based Rental Assistance	2009		\$ 218,373.25
Technical Assistance/Housing Information/Resource Identification	2009		\$ 29,184.75
New Construction	2009	\$ (350,000.00)	
Operating Costs	2009		\$ 350,000.00
		<b>\$ (597,558.00)</b>	<b>\$ 597,558.00</b>

**REQUIRED AUTHORIZATION**

<b>Finance Director:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>
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<b>Date</b>  7/28/10	<b>Subject:</b> The Housing and Community Development Department recommends City Council's approval of an Ordinance approving an amendment to the Housing Opportunities for Persons with AIDS (HOPWA) Program Summary Budget for two program years, the 2008 and 2009 Consolidated Action Plans (Plan).	<b>Originators Initials</b> 	<b>Page</b> 2 of 2
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In accordance with HUD regulations, the City is required to amend components of the Grant Agreement when (1) an activity is added; (2) an activity is deleted; (3) a reallocation of funds increases or decreases the budget of an activity by more than twenty-five percent (25%) of the original budget; or (4) when there is a change in the purpose, scope, location or beneficiaries of an activity, or when a priority has changed. Herein, budget line items are increased and decreased by more than 25%.

The items published on April 10, 2010 were approved by the Housing Committee on June 15, 2010. The items published on September 9, 2010 were approved by Housing Committee on October 28, 2010.

Through Notices published in the Houston Chronicle on Wednesday, September 9, 2009 and Saturday, April 10, 2010, the public was notified of these proposed changes to the HOPWA Program Summary Budgets for the 2008 and 2009 program years. The public had thirty (30) days to comment on these proposed changes. There were no responses regarding the public notice.

Approval of an ordinance is recommended.

VCJ RC/BS

cc: City Secretary  
Legal Department  
Mayor's Office  
Finance and Administration

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

HCD11-05

<b>SUBJECT: An Ordinance authorizing a Contract between the City of Houston and Ibn-Sina Foundation for approval of funding for Land Acquisition and Construction of a Community Medical Center located at 16345 S. Post Oak Road, Houston Texas 77053</b>	<b>Category #</b>	<b>Page 1 of 2</b>	<b>Agenda Item #</b>  11
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<b>FROM (Department or other point of origin):</b> James Noteware, Director Housing and Community Development	<b>Origination Date</b> 02/03/2011	<b>Agenda Date</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b> 	<b>Council District affected:</b> Council member Wanda Adams "D"
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<b>For additional information/contact:</b> Gayve F. Anklesaria Phone: 713-868-8466	<b>Date and identification of prior authorizing Council action:</b> N/A
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**RECOMMENDATION: (Summary)**  
City Council Ordinance authorizing a Contract between the City of Houston and Ibn-Sina Foundation to approve funding request in the amount of \$1,200,000 for the Land Acquisition and Construction of a new Community Medical Center in Southwest Houston.

<b>Amount of Funding:</b>  \$1,200,000	<b>Finance Department:</b>
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**SOURCE OF FUNDING** [ ] General Fund [X] Grant Fund [ ] Enterprise Fund [ ] Other (Specify)  
**Community Development Block Grant (CDBG) Fund 5000**

**SPECIFIC EXPLANATION:**  
The Ibn Sina Foundation provides low-cost medical and dental care to uninsured low and moderate-income patients in Houston. The clinic has four primary care physicians, three dentists and utilizes the services of eight additional volunteer physicians and three volunteer dentists. Patients at the Clinic receive immunizations, health care screenings, low cost lab work, free medications, preventive and maintenance dentistry, pharmaceuticals, and patient health education as part of the regular medical treatment available

The Housing and Community Development Department requests approval of a Contract between the City of Houston and Ibn-Sina Foundation for Land Acquisition and Construction of a Community Medical Center. This contract will allow CDBG funding for establishing a new Medical facility in an underserved area of District D in Houston for primarily serving the low and moderate income residents.

This project will be funded in joint collaboration with the City of Houston and the Ibn-Sina Foundation. The total preliminary project budget is \$1,900,000 which includes the cost of land. The City of Houston will allocate \$1,200,000 in CDBG funds while Ibn-Sina Foundation will contribute the remainder of \$700,000. Additionally, the Foundation will assume the recurring annual operating and maintenance costs as well as coordinating with other groups and agencies for providing programming activities

Ibn-Sina Medical Clinic collaborates with the House of Charity, The Rose Breast Clinic/The Rose Diagnostic Center, Gateway to Care and Aga Khan Health Services in order to provide a wide range of indirectly available based patient care. Ibn-Sina ensures that its services are made widely known through the auspices of the Texas Association of Community Health, The Texas Department of Health and The Harris County Community Access Collaboration. It is also establishing a relationship with the Memorial Herman Healthcare System. As one of the largest not-for-profit healthcare systems in the country, MHHS will enable Ibn-Sina to assist patients in need of emergency care and hospital admission.

<b>REQUIRED AUTHORIZATION</b>		
<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>

NOT



<b>Date</b> 02/06/2011	<b>Subject:</b> An Ordinance authorizing a Contract between the City of Houston and Ibn-Sina Foundation for approval of funding for Land Acquisition and Construction of a Community Medical Center located at 16345 S. Post Oak Rd. Houston Texas 77053	<b>Originator's Initials</b>	<b>Page</b> 2 of 2
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The Foundation's mission is to ensure the health of the community by providing integrated preventive and primary care in a clinical setting through the dissemination and application of health related knowledge, thereby enhancing the quality of life for future generations.

Ibn-Sina foundation is requesting the City of Houston for CDBG funds to acquire the land and build this facility for the indigent uninsured low/moderate income population in District D. The facility will become a corner stone in providing qualitative and comprehensive Healthcare services to the low income residents in this area on one hand while providing high quality Dental services at affordable rates on the other.

The Housing and Community Development Committee considered this item and recommended it for full Council approval on November 18th, 2010.

The Housing and Community Development Department has reviewed and considered the agency's funding request and recommends its approval.

Approval of this Ordinance is recommended.

JN:ga

cc: City Attorney  
City Secretary  
Finance and Administration  
Mayor's Office

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION


<b>SUBJECT:</b> Ordinance authorizing the Houston Police Department to apply for and accept FY 2010 COPS Hiring Program funding.		<b>Category #</b>	<b>Page</b> 1 of 1	<b>Agenda Item #</b> 12
<b>FROM: (Department or other point of origin):</b> Houston Police Department		<b>Origination Date</b>		<b>Agenda Date</b> FEB 16 2011
<b>DIRECTOR'S SIGNATURE:</b> Charles A. McClelland Jr. Chief of Police <i>Charles McClelland</i>		<b>Council Districts affected:</b> All		
<b>For additional information contact:</b> Joseph A. Fenninger <i>JAF 1/24/11</i> CFO and Deputy Director 713-308-1770		<b>Date and identification of prior authorizing Council Action:</b>		
<b>RECOMMENDATION: (Summary)</b> Adopt an ordinance authorizing an application for and acceptance of grant funds from the 2010 COPS Hiring Program.				
<b>Amount of Funding:</b>			<b>Finance Budget:</b>	
<u>COPS Hiring Program</u>	<u>Cash Match</u>	<u>Total Funding</u>		
\$9,843,750	-0-	\$9,843,750		
<b>SOURCE OF FUNDING:</b> <input type="checkbox"/> General Fund <input checked="" type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund				
<input type="checkbox"/> Other (Specify) FY 2010 COPS Hiring Program: \$9,843,750				
<b>SPECIFIC EXPLANATION:</b>				
<p>The U. S. Department of Justice, Office of Community Oriented Policing Services, under the FY 2010 COPS Hiring Program, provides funds directly to law enforcement agencies to hire and/or rehire career law enforcement officers in an effort to increase their community policing capacity and crime prevention efforts.</p> <p>The FY 2010 COPS Hiring Program will provide 100 percent funding for approved entry-level salaries and fringe benefits for three years for newly-hired, full time sworn officer positions, or for rehired officers who have been laid off or are scheduled to be laid off on a future date as a result of local budget cuts. The Houston Police Department has requested \$9,843,750 in grant funds to fund 50 police officer positions. While the grant does not require a cash match, it does require the City to maintain the grant funded positions for one year after the end of the grant period.</p> <p>City Council previously authorized the Houston Police Department to apply to the Department of Justice for police officer funding through the American Recovery and Reinvestment Act (ARRA), under which the Department was unsuccessful in obtaining funding. However, the Department of Justice asked that an updated application be forwarded from the City to obtain the same type of funding under the FY 2010 COPS Hiring Program, a separate grant program. As this is a separate program unrelated to the earlier ARRA application, the current action requires its own ordinance. Further, as City policy requires City Council approval of all grants greater than \$400,000, the Chief of Police recommends that City Council adopt an ordinance authorizing an application for and acceptance of grant funds from the FY 2010 COPS Hiring Program.</p>				
<b>REQUIRED AUTHORIZATION</b>			<b>10MAT013</b>	
<b>Finance Director:</b>	<b>Other Authorization:</b>		<b>Other Authorization:</b>	
<i>[Signature]</i>	<i>[Signature] 1/24/11</i>			

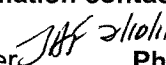
TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Ordinance increasing the maximum contract amount of Professional Services Contract with Ron Smith & Associates, Inc. to provide management services to the Houston Police Department (HPD) Latent Print Processing / Comparison Unit.	<b>Page</b> 1 of 2	<b>Agenda Item #</b>  13
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<b>FROM: (Department or other point of origin):</b> Houston Police Department	<b>Origination Date:</b>	<b>Agenda Date:</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b>  Charles A. McClelland, Jr., Chief of Police	<b>Council District affected:</b> All
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<b>For additional information contact:</b> Joseph A. Fenninger  CFO and Deputy Director Phone: 713-308-1770	<b>Date and identification of prior authorizing Council action:</b> Ordinance 2008-1233, 12/30/08; Motion 2009-0892, 12/09/09; Ordinance 2009-1359, 12/16/09; Ordinance 2010-0539, 06/30/10.
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**RECOMMENDATION: (Summary)** Adopt an ordinance increasing the maximum contract amount of the contract with Ron Smith & Associates, Inc. to provide management services to the HPD Latent Print Processing / Comparison Unit.

**Amount and Source of Funding:** \$300,000 – General Fund No. 1000  
Maximum contract amount: \$5,534,037

**Specific Explanation:**

Ron Smith & Associates, Inc. has managed the day-to-day operations of HPD's Latent Print Processing / Comparison Unit for approximately the previous two years as the department continues to work through the structural, operational, financial, and contractual issues surrounding the rebuilding of the unit.

HPD has \$878,900 in remaining funds as of January 31, 2011 on the contract and expects to use all allocated funding before the end of the FY11. The funding has been utilized at a faster than anticipated rate due to an unanticipated 426% increase in the number of cases worked when compared to the previous year. These increases came, in part, from requests from patrol officers, crime scene investigators, cold case investigators, and the District Attorney's office. This growth can be attributed to an increasing confidence in the abilities of the Identification Division, through Ron Smith & Associates, to identify criminal suspects. Further, approximately \$400,000 was redirected from the backlog and reanalysis work to cover the unexpected increase in the levels of new case work and cover the cost of training of seven in-house evidence processing personnel. Establishing an in-house capacity to process the intake of print evidence and the related case information is the first critical step toward ensuring the work is done effectively and efficiently.


To fund the continuing work of the contract through the remainder of FY11, HPD recommends that City Council adopt an ordinance approving additional spending authority in the amount of \$300,000 and raising the maximum contract value to \$5,534,037.

This action ensures the ongoing operations of the Latent Print Processing / Comparison Unit up to, but not beyond June 30, 2011. Continued operations of these critical functions will be addressed in the FY12 budget process.

**Background Information:**

In December of 2008, City Council approved a two-year contract with Ron Smith & Associates, Inc. to provide a technical audit of the Latent Print Processing / Comparison Unit along with other units of HPD's Identification Division.

**REQUIRED AUTHORIZATION** 10TNO05 NOT

<b>Finance:</b>	<b>Other Authorization:</b> 	<b>Other Authorization:</b>
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Date	<b>Subject:</b> Ordinance increasing the maximum contract amount of Professional Services Contract with Ron Smith & Associates, Inc. to provide management services to the Houston Police Department (HPD) Latent Print Processing / Comparison Unit.	Originator's Initials	Page 2 of 2
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The contractor's findings confirmed that, in order to improve effectiveness and efficiency along with eliminating a growing backlog of cases, the Latent Print Processing / Comparison Unit had to be substantially overhauled. Because HPD did not have the internal expertise or capacity to perform this exercise, and having already gone through the vetting process of choosing the most experienced and qualified forensics firm to perform the audit, in December of 2009 HPD recommended and City Council approved a first amendment to the contract with Ron Smith & Associates, Inc. The contract amendment increased the maximum contract amount to \$2,902,037, allocated additional funding of \$2.33 million for FY10, and extended the contract term to December 31, 2012 plus two additional option years. The new deliverables included, but were not limited to, an assessment of the operations of all aspects of the Latent Print Processing / Comparison Unit, reanalysis and rework of violent crime cases, processing of backlog cases, continued management of daily operations, and the production of appropriate manuals and reports. FY11 funding of \$2,332,000 to continue the work was approved by City Council on June 30, 2010, raising the maximum contract value to \$5,234,037.


While providing day-to-day coverage of the Latent Print Processing / Comparison Unit, the contractor is also working to process prints from 7,100 cases through local, state, and federal databases for possible comparisons. Additionally, the contractor is attempting to complete the final work-up on prints from another 2,800 cases that have already been compared to local, state and federal databases.

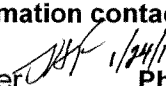
TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Ordinance approving the first amendment to the contract with Business Enterprise Mapping, Inc. for consulting services related to the implementation of the requisite quality management system to attain ISO 9001:2008 certification in the Houston Police Department's Emergency Communications and Property & Supply Divisions.	Page 1 of 2	Agenda Item #  14
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<b>FROM: (Department or other point of origin):</b> Houston Police Department	<b>Origination Date:</b>	<b>Agenda Date:</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b>  Charles A. McClelland, Jr., Chief of Police	<b>Council District affected:</b> All
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<b>For additional information contact:</b> Joseph A. Fenninger  1/24/11 CFO and Deputy Director Phone: 713-308-1770	<b>Date and identification of prior authorizing Council action:</b> Ordinance 2010-0223; March 24, 2010
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**RECOMMENDATION: (Summary)** Adopt an ordinance approving the first amendment to the contract with Business Enterprise Mapping, Inc. for consulting services to attain ISO 9001:2008 certification for the Houston Police Department's Emergency Communications and Property & Supply Divisions.

**Amount and Source of Funding:** \$35,900.00 General Fund No. 1000

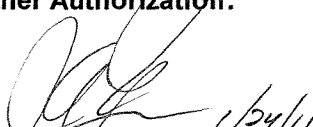
**SPECIFIC EXPLANATION:**

On March 24, 2010, via Ordinance 2010-0223, City Council approved a contract with Business Enterprise Mapping, Inc. to provide consulting services to the Houston Police Department relative to the Department obtaining ISO 9001:2008 certification in the Emergency Communication Division and the Property & Supply Division. Recognized on an international level, the ISO 9001:2008 certification documents that an organization meets "best practices" standards for a wide range of business practices. Meeting these standards results in lower costs, improved efficiency and higher quality of delivered services. Further, by demonstrating a commitment to controlling costs and efficient operations, obtaining ISO 9001:2008 certification allows the department to score higher when seeking grant funds.

To date, Business Enterprise Mapping, Inc. has assisted the department in identifying and mapping 32 key work processes that are critical to the operation of each division. A total of 91 Opportunities for Improvement have been identified within these 32 processes wherein inefficiencies have been resolved, economic gains maximized, and the overall quality of services improved. Two additional steps are required for the divisions to obtain ISO 9001:2008 certification: (1) expand the services under the contract with Business Enterprise Mapping, Inc. to establish and train an in-house (HPD) audit team that ensures continuous improvement and compliance with ISO standards and also to provide support services throughout the certification process, and (2) hire a third-party auditor, independent from both the Houston Police Department and Business Enterprise Mapping, Inc., who will conduct a two-stage registration audit, followed by subsequent surveillance audits, to ensure that the divisions remain compliant with ISO 9001:2008 standards.

At the time of the original award, the department was unable to determine whether the assistance of Business Enterprise Mapping, Inc. would be required to establish an in-house ISO 9001:2008 compliance audit function. Given the complexity of conforming to and maintaining compliance with these standards, which is necessary for continued certification, the Chief of Police recommends that City Council adopt an ordinance approving the first amendment to the contract with Business Enterprise Mapping, Inc. to add an audit training and support services component to the contract in an amount of \$35,900. As described during the original award process to Business Enterprise Mapping, Inc., the independent, third-party auditor will be hired under another action at a cost of approximately \$24,000.

**REQUIRED AUTHORIZATION** 10TNO004

<b>Finance:</b>	<b>Other Authorization:</b>  1/24/11	<b>Other Authorization:</b>
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<b>Date</b>	<b>Subject:</b> Ordinance approving the first amendment to the contract with Business Enterprise Mapping, Inc. (BEM) for consulting services related to the implementation of the requisite quality management system to attain ISO 9001:2008 certification in the Houston Police Department's Emergency Communications and Property & Supply Divisions.	<b>Originator's Initials</b>	<b>Page 2 of 2</b>
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**Pay or Play:**

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 continuous to provide benefits for some employees but will pay into the Contractor Responsibility Fund for others, in compliance with City policy.

**M/WBE:**

Due to the absence of M/WBE certified vendors qualified to provide these highly specialized consulting services, and in accordance with consultations with the Affirmative Action Division, no M/WBE participation goal has been established for this contract.

<b>SUBJECT:</b> Development Agreement between Buffalo Bayou Partnership, Harris County Flood Control District, and the City of Houston concerning the proposed Buffalo Bayou Project at Buffalo Bayou Park	<b>Page</b> 1 of 1	<b>Agenda Item</b>  15
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**FROM (Department or other point of origin):**  
Chief Development Officer and  
Parks and Recreation Department

**Origination Date**  
Feb. 11, 2011

**Agenda Date**  
Feb. 16, 2011

**DIRECTOR'S SIGNATURE:**

Andrew F. Icken

**Council District affected:** H, I

**For additional information contact:**

Andy Icken Phone: 832-393-1064  
Joe Turner Phone: 832-395-7050

**Date and identification of prior authorizing Council action:** none

**RECOMMENDATION:** Approve a Development Agreement between Buffalo Bayou Partnership, Harris County Flood Control District and the City concerning the proposed Buffalo Bayou Project at Buffalo Bayou Park

**Amount and Source Of Funding:** none

**Finance Budget:**

**SPECIFIC EXPLANATION:** The City owns Buffalo Bayou Park (the "Park"), a publicly dedicated park of approximately 158 acres adjacent to Buffalo Bayou and generally between Memorial Drive on the North, Sabine Street on the East, Allen Parkway on the South, and Shepherd Drive on the West.

The Harris County Flood Control District ("HCFCD") maintains Buffalo Bayou for drainage and flood control purposes within the Park and other areas of the City.

The Buffalo Bayou Partnership, a Texas non-profit corporation ("BBP"), is a coalition of civic, environmental, governmental and business representatives, organized for the purposes of developing and facilitating improvements to the Buffalo Bayou greenway system. BBP has obtained the offer of a private performance challenge grant of \$30 million for the development, improvement, operation and maintenance of the Park, with such work being generally known as the "Buffalo Bayou Park Project" (the "Project").

The Project is being developed in four phases including (i) a Master Plan Phase which began on May 7, 2010, (ii) a Development Phase which is now contemplated, and future (iii) Construction Phase and (iv) Operating Phase, as described in more detail in the attachment. As part of the Development Phase, the City will grant rights of entry to the Park for HCFCD to undertake certain Buffalo Bayou channel reconfiguration work, and for BBP to prepare final design documents for Park improvements. The three parties also commit to work in good faith to develop definitive agreements for the future Construction Phase and Operating Phase of the Project.

The proposed Tri-Party Development Agreement sets out the rights and obligations of the City, HCFCD and BBP during the Development Phase and their intentions with regards to the future Construction Phase and Operating Phase of the Project, which are further described in the attachment. The City intends to utilize TIRZ 3 funding to fulfill the agreed maintenance needs of this project which are currently estimated to be \$2m annually – beginning in 2015. This will be updated and revised during the development phase.

The Project and the Tri-Party Development Agreement will be presented at the Neighborhood Protection Quality of Life Council Committee meeting on February 14, 2011.

Council approval of the Tri-Party Development Agreement is recommended.

#### REQUIRED AUTHORIZATION

**Park and Recreation Dept.:**

Joe Turner, Director, Parks &  
Recreation Department

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**Subject:** Ordinance increasing the maximum contract amount to Joint Election Services agreement between Harris County and the City of Houston related to the joint elections held on November 2, 2010.

Category #

Page 1 of 1

Agenda Item

16


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

**Origination Date:**  
2-3-2011

**Agenda Date**

FEB 16 2011

**DIRECTOR'S SIGNATURE**



**Council District(s) affected:**

All

**For additional information contact: Anna Russell**  
**Phone: (832) 393-1100**

**Date and Identification of prior authorizing Council Action: Ordinance 2010-768 – 10-6-2010**

**RECOMMENDATION: (Summary)**

That City Council adopt an ordinance increasing the maximum contract amount for the joint election services agreement with Harris County for the November 2, 2010 joint election services.

**Amount of Funding: Additional amount: \$7,153.94**  
**Maximum contract amount: \$957,153.94**

**Finance Budget:**

**SOURCE OF FUNDING:**                       **General Fund**                       **Grant Fund**                       **Enterprise Fund**

**Other (Specify) Fund 1000**

**SPECIFIC EXPLANATION:**

In October, 2010, City Council approved an Agreement with Harris County for joint entity election services for the joint elections held on Tuesday, November 2, 2010. Under the Agreement, each participating governmental entity is allocated, and obligated to pay its pro rata share of the actual cost of the election, including expenses for polling locations and election personnel. The City has received an invoice from Harris County listing the final cost for the City's allocated share of the election services, which exceeds the estimated amount allocated in the previous ordinance by \$7,153.94. It is therefore necessary that the City Council approve an increase in the maximum contract amount.

**REQUIRED AUTHORIZATION**

Finance Director:

Other Authorization:

Other Authorization:



**REQUEST FOR COUNCIL ACTION**

TO: Mayor via City Secretary

RCA# 8896

**Subject:** Approve an Appropriating Ordinance and Approve a Contract for the Handling and Disposal of Hazardous Materials for Various Departments  
S30-L23696

Category #  
4

Page 1 of 2

Agenda Item

17

**FROM (Department or other point of origin):**  
Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**  
December 23, 2010

**Agenda Date**  
FEB 16 2011

**DIRECTOR'S SIGNATURE**  


**Council District(s) affected**  
All

**For additional information contact:**  
David Guernsey      Phone: (832) 395-3640  
Douglas Moore      Phone: (832) 393-8724

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

**RECOMMENDATION: (Summary)**  
Approve an ordinance authorizing the appropriation of \$175,000.00 from the Street & Bridge Consolidated Construction Fund (4506) and \$132,000.00 from the Water & Sewer System Consolidated Construction Fund (8500); and award a three-year contract, with two one-year options to SET Environmental, Inc. on its low bid in an amount not to exceed \$2,501,454.19 for the handling and disposal of hazardous materials for various departments.

**Maximum Contract Amount:** \$2,501,454.19      **Finance Budget**

- \$ 245,000.00 - General Fund (1000)
  - \$ 612,500.00 - Water & Sewer System Operating Fund (8300)
  - \$ 125,000.00 - Fleet Management Fund (1005)
  - \$ 175,000.00 - Street & Bridge Consolidated Construction Fund (4506) WBS# N-000396-0021-4
  - \$ 719,176.19 - Storm Water Fund (2302)
  - \$ 132,000.00 - Water & Sewer System Consolidated Construction Fund (8500) WBS# S-000019-0071-4
  - \$ 492,778.00 - HAS Revenue Fund (8001)
- \$2,501,454.19 - TOTAL

**SPECIFIC EXPLANATION:**  
The City Purchasing Agent recommends that City Council approve an ordinance authorizing the appropriation of \$175,000.00 from the Street & Bridge Consolidated Construction Fund (4506) and \$132,000.00 from the Water & Sewer System Consolidated Construction Fund (8500); and award a three-year contract, with two one-year options to SET Environmental, Inc. on its low bid in an amount not to exceed \$2,501,454.19 for the handling and disposal of hazardous materials for various departments. The City Purchasing Agent may terminate this contract at any time upon 30-days written notice to the contractor.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Thirty prospective bidders downloaded the solicitation document from SPD's e-bidding website and six bids were received as outlined below:

<u>Company</u>	<u>Total Amount</u>
1. Anderson Pollution Control	\$ 563,400.81 (Partial Bid)
2. SET Environmental, Inc.	<b>\$2,501,454.19</b>
3. Oil Mop, LLC	\$2,506,945.31
4. Eagle Construction & Environmental Services	\$3,676,868.71
5. GI Environmental Vacuum SVC	\$3,860,338.88
6. Philip Reclamation Services	\$7,126,342.75

**REQUIRED AUTHORIZATION**

Finance Department: \_\_\_\_\_ Other Authorization: \_\_\_\_\_ Other Authorization: \_\_\_\_\_

*MD*

Date: 12/23/2010	Subject: Approve an Appropriating Ordinance and Approve a Contract for the Handling and Disposal of Hazardous Materials for Various Departments S30-L23696	Originator's Initials RM	Page 2 of 2
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The scope of work requires the contractor to provide all labor, supervision, materials, tools, and transportation necessary to contain spills; screen, remove and dispose of contaminated soils, asbestos and lead materials, drums, barrels, transformers or other containers; and all other services required in accordance with all applicable local, State and Federal laws and regulations pertaining to solid and liquid hazardous waste handling, transportation, storage and disposal.

**M/WBE Subcontracting:**

This invitation to bid was issued as a goal-oriented contract with an 11% M/WBE participation level. **SET Environmental, Inc.** has designated the below-named companies as its certified M/WBE subcontractors:

NAME	TYPE OF WORK	DOLLAR AMOUNT	PERCENTAGE
A&B Environmental Services, Inc.	Lab Testing	\$150,087.25	6%
Pulido Trucking, LP	Truck Hauling	\$ 75,043.62	3%
Channel Safety and Marine Supply, Inc.	Industrial Safety Devices	\$ 75,043.62	3%
<b>TOTAL</b>		<b>\$300,174.49</b>	<b>12%</b>

The Affirmative Action Division will monitor this contract.

**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.

Buyer: Richard Morris

**ESTIMATED SPENDING AUTHORITY**

DEPARTMENT	FY 2011	OUT YEARS	TOTAL
Public Works & Engineering	\$361,190.00	\$1,602,486.19	\$1,963,676.19
Houston Airport System	\$ 49,278.00	\$ 443,500.00	\$ 492,778.00
Parks & Recreation	\$ 1,500.00	\$ 33,500.00	\$ 35,000.00
Houston Police	\$ 1,500.00	\$ 8,500.00	\$ 10,000.00
	<b>\$413,468.00</b>	<b>\$2,087,986.19</b>	<b>\$2,501,454.19</b>

<b>SUBJECT:</b> Approve a First Amendment to the Contract, Amend Ordinance No. 2008-0374 to Increase the Maximum Contract Amount, and Appropriate Additional Funds for the Task Order Contract for Various City Departments with Brave/Architecture Inc. WBS Nos. D-000115-0005-3; H-000073-0001-3; E-000TOC-0001-3; G-00ARCH-0001-3	<b>Page</b> 1 of 2	<b>Agenda Item</b>  <span style="font-size: 2em; font-family: cursive;">18</span>
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<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b>	<b>Agenda Date</b>  FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b> Scott Minnix	<b>Council District(s) affected:</b> All
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<b>For additional information contact:</b> Jacquelyn L. Nisby  Phone: 832-393-8023	<b>Date and identification of prior authorizing Council action:</b>  Ordinance No. 2008-0374; Dated April 30, 2008 Ordinance No. 2009-0416; Dated May 13, 2009 Ordinance No. 2009-1132; Dated November 18, 2009
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**RECOMMENDATION:** (1) Approve a First Amendment to the contract with Brave/Architecture Inc. to extend the contract term from three to five years; (2) amend Ordinance No. 2008-0374 (passed April 30, 2008) to increase the maximum contract amount from \$1,900,000.00 to \$2,500,000.00; and (3) appropriate additional funds.

<b>Amount and Source of Funding:</b> Maximum contract amount: \$2,500,000.00 – 5 years  \$ 75,000.00 –General Improvement Consolidated Construction Fund (4509) \$ 50,000.00 –Public Health Consolidated Construction Fund (4508) \$ 50,000.00 –Public Library Consolidated Construction Fund (4507) \$ <u>105,000.00</u> –Police Consolidated Construction Fund (4504) <b>\$ 280,000.00 Total Appropriation</b>	<b>Finance Budget:</b>
<b>Previous Funding:</b> Maximum contract amount \$1,900,000.00 – 3 years  \$ 525,000.00 –General Improvement Consolidated Construction Fund (4509) \$ 50,000.00 –Public Health Consolidated Construction Fund (4508) \$ 175,000.00 –Public Library Consolidated Construction Fund (4507) \$ 241,000.00 –Solid Waste Consolidated Construction Fund (4503) \$ <u>200,000.00</u> –Police Consolidated Construction Fund (4504) <b>\$1,191,000.00 Total Appropriation</b>	

**REQUIRED AUTHORIZATION**

CUIC #25DSGN71 MB

<b>General Services Department:</b>   Humberto Bautista, P.E. City Engineer	<b>Department of Health and Human Services:</b>   Stephen Williams, M.ED, MPA Director	<b>Houston Public Library:</b>   Rhea Brown Lawson, Ph.D., Director
<b>Houston Police Department:</b> <span style="float: right; font-family: cursive;">SNY</span>   Charles A. McClelland, Jr. Chief		

<b>DATE</b>	<b>SUBJECT:</b> Approve a First Amendment to the Contract, Amend Ordinance No. 2008-0374 to Increase the Maximum Contract Amount, and Appropriate Additional Funds for the Task Order Contract for Various City Departments with Brave/Architecture Inc. WBS Nos. D-000115-0005-3; H-000073-0001-3; E-000TOC-0001-3; G-00ARCH-0001-3	<b>Originator's Initials</b> EA	<b>Page</b> 2 of 2
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**SPECIFIC EXPLANATION:** The General Services Department (GSD) recommends that City Council approve a First Amendment to the contract with Brave/Architecture Inc.(Brave) for citywide task order architectural and engineering services for various City departments to extend the contract term from May 9, 2008 to May 9, 2013. It is anticipated that GSD will retain the services of an additional design firm in the near future. It is further recommended that City Council approve an Ordinance amending Ordinance No. 2008-0374 (passed April 30, 2008) to increase the maximum contract amount from \$1,900,000.00 to \$2,500,000.00, and appropriate an additional sum of \$280,000.00. The additional funding will allow Brave to continue to provide architectural and engineering design services on an as needed basis and seal documents to comply with the City Building Code. Fees for each project will be negotiated based upon the size and complexity of the tasks involved. Periodically, as departments identify projects, additional funding will be made available by supplemental allocations from various departmental budgets, and appropriations from various bond funds up to the maximum contract amount of \$2,500,000.00.

**PROJECT LOCATION:** Citywide

**PREVIOUS HISTORY AND PROJECT SCOPE:** On April 30, 2008, City Council approved a three-year architectural services task order contract with Brave and delegated authority to the director to approve supplemental allocations up to the maximum contract amount of \$800,000.00. On May 13, 2009, City Council increased the maximum contract amount to \$1,900,000.00, and appropriated an additional \$291,000.00 for architectural and engineering design services for various facilities. On November 18, 2009, City Council appropriated an additional sum of \$400,000.00 to allow Brave to continue to provide architectural and engineering design services for various facilities as requested by City departments.

**M/WBE PARTICIPATION:** The original Task Order Contract and this additional appropriation have a 24% M/WBE goal. Through December 2010, Brave has achieved 29.57% M/WBE participation.

SM:HB:JLN:EA:ea

c: Jacquelyn L. Nisby, Robert Gallegos, Chris Gonzales, Kirk Munden, Wendy Heger, Celina Ridge, Calvin Curtis, Morris Scott, Martha Leyva, Project File 813

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

<b>SUBJECT:</b> Award Construction Contract Carrera Construction, Inc. Sagemont Park WBS No. F-000671-0001-4	<b>Page</b> 1 of 2	<b>Agenda Item</b> 19
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<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b>	<b>Agenda Date</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b> Scott Minnix <i>Scott D. Minnix</i> 1/26/11	<b>Council District(s) affected:</b> E
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<b>For additional information contact:</b> Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION:** Award construction contract and appropriate/allocate funds for the project.

<b>Amount and Source of Funding:</b> \$ 1,601,325.00 Parks Consolidated Construction Fund (4502) \$ 1,000,000.00 State - Grant Funded (5010) Texas Parks and Wildlife Department \$ 2,601,325.00 <b>Total Appropriation</b>	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:** The General Services Department (GSD) recommends that City Council award a construction contract to Carrera Construction, Inc. on the proposal amount of \$2,390,000.00 to provide construction services for Sagemont Park for the Houston Parks and Recreation Department.

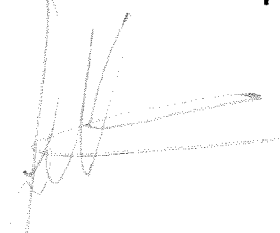
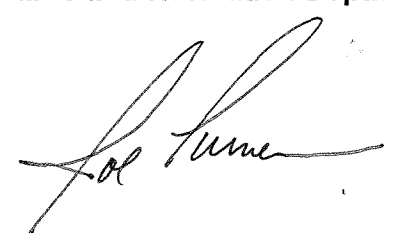
**PROJECT LOCATION:** 11507 Hughes (576 Y)

**PROJECT DESCRIPTION:** The scope of work includes demolition and abatement of the old community center, parking lot and asphalt pad, and construction of a new community center, parking lot, plaza area, connecting walkways, left turn lane on Hughes Road for access to community center, landscaping and irrigation, and site detention.

The contract duration for this project is 339 days. M2L Associates is the design consultant and GSD is the construction manager for this project.

**PROPOSALS:** Carrera Construction, Inc. was selected through a two step process. The project was advertised in accordance with the requirements of Chapter 271 - Subchapter H of the Texas Local Government Code and contained selection criteria that ranked the respondents on building construction experience, references, contractor representatives, subcontractors and suppliers, safety, and claim history. Ten firms responded. A selection committee comprised of GSD project management ranked the respondents. Eight of the ten firms received sufficient points and were requested to submit proposals. Five of the eight firms submitted proposals. Carrera Construction, Inc. submitted the lowest proposal.

**REQUIRED AUTHORIZATION** CUIC ID # 25PARK138

<b>General Services Department:</b>  Richard A. Vella Chief of Design & Construction Division	<b>Parks and Recreation Department:</b> <span style="float: right;">MOX</span>  Joe Turner Director
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**PROPOSALS CONT:** The five firms are ranked as follows:

	<u>PROPOSER</u>	<u>PRICE</u>
1	Carrera Construction, Inc.	\$2,390,000.00
2	The Gonzalez Group, LP	\$2,410,000.00
3	Times Construction, Inc.	\$2,522,000.00
4	Resicom, Inc.	\$2,641,000.00
5	Millis Development & Construction, Inc.	\$2,845,199.00

**AWARD:** It is recommended that City Council award the construction contract to Carrera Construction, Inc. and appropriate/allocate funds for the project, including an additional \$16,000.00 for air monitoring services under the existing contract with Environmental Consultants, Inc. and \$34,000.00 for engineering and materials testing services under the existing contract with Paradigm Consultants, Inc.

**FUNDING SUMMARY:**

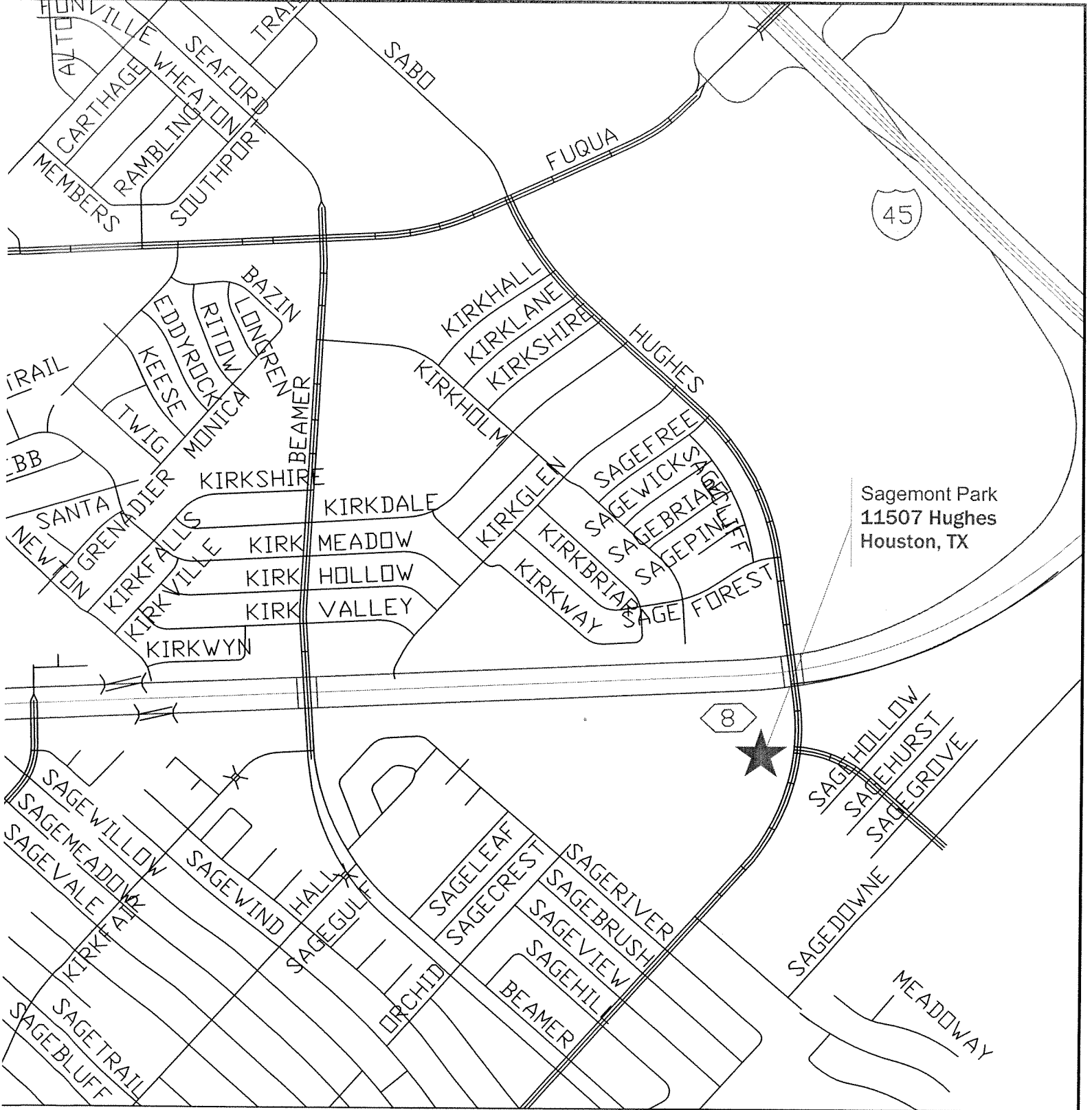
\$ 2,390,000.00	Construction Contract Services
\$ 119,500.00	5% Contingency
<b>\$ 2,509,500.00</b>	<b>Total Contract Services</b>
\$ 41,825.00	Civic Art (1.75%)
\$ 16,000.00	Air Monitoring Services
\$ 34,000.00	Engineering and Materials Testing
<b>\$ 2,601,325.00</b>	<b>Total Funding</b>

**CONSTRUCTION GOALS:** A 14% MBE goal and 10% SBE goal have been established for this contract. The contractor has submitted the following certified firms to achieve the goals:

<u>FIRM (MBE)</u>	<u>SCOPE</u>	<u>AMOUNT</u>	<u>% OF CONTRACT</u>
Rincon Air & Heat	Mech/HVAC	\$ 375,000.00	15.69%
<u>FIRM (SBE)</u>	<u>SCOPE</u>	<u>AMOUNT</u>	<u>% OF CONTRACT</u>
Aztec Landscaping	Land/irrigation	\$ 96,250.00	4.03%
Saabs Construction	Masonry	\$ 77,000.00	3.22%
Above the Rim Plumbing	Plumbing	\$ 52,500.00	2.20%
Hazard Assessment	Abatement	\$ 19,700.00	.82%
<b>TOTAL</b>		<b>\$ 245,450.00</b>	<b>10.27%</b>

**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 has elected to pay into the Contractor Responsibility Fund in compliance with City policy.

SM: JLN:RAV:LJ:RJO:rp  
 c: Marty Stein, Jacquelyn L. Nisby, Mark Ross, Dan Pederson, Calvin Curtis, Morris Scott, Gabriel Mussio, Chris Gonzales, Martha Leyva, Estella Espinosa, File 712

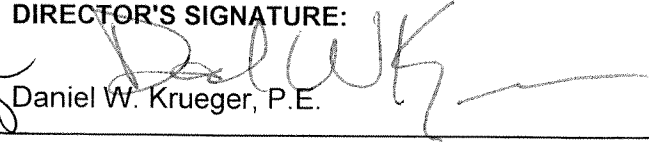


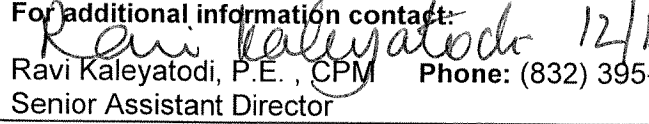
Sagemont Park  
11507 Hughes  
Houston, TX

**Sagemont Park**  
11507 Hughes  
Houston, TX 77089

<b>SUBJECT:</b> Professional Engineering Services Contract between the City of Houston and Entech Civil Engineers, Inc. for On-Call Citywide Rehabilitation and Replacement of Bridge Structures/Roadways. WBS No. N-00445N-0027-3	Page 1 of 2	Agenda Item #  20
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<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b>	<b>Agenda Date</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b>  Daniel W. Krueger, P.E.	<b>Council District affected</b>  ALL  89
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<b>For additional information contact:</b>  Ravi Kaleyatodi, P.E., CPM Phone: (832) 395-2826 Senior Assistant Director	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION: (Summary)**  
Approve Professional Engineering Services Contract with Entech Civil Engineers, Inc. and appropriate funds.

**Amount and Source of Funding:**  
\$230,000.00 from the Street & Bridge Consolidated Construction Fund No. 4506 *W.P. 12/13/2010*

**DESCRIPTION/SCOPE:** This project will allow for evaluation of existing bridges which have received below standard inspection reports and prepare design plans to rehabilitate or replace existing bridges and bridge/roadway structures throughout the City.

**LOCATION:** Citywide.


**SCOPE OF CONTRACT AND FEE:** This is an on-call contract. Individual Work Orders will be issued for engineering assignments as needs arise. The project scope consists of Phase I - Engineering Analysis and Preliminary Design, Phase II - Final Design and Phase III - Construction Phase Services.

Phase I - Engineering Analysis Services. The scope of work includes site visits, engineering assessment and analysis of the existing condition, and necessary recommendation of remedial measures for the assigned bridge and/or roadway. Such studies and designs will consist of preliminary layouts, sketches, recommended final design criteria, outline specifications, reports and cost estimates.

Phase II - Final Design. The Consultant will prepare detailed construction documents required to obtain approval from appropriate governmental authorities and public and private utilities. Additionally, the Consultant will assist the City in securing bids for the construction of proposed bridge repair/replacement based upon the construction documents, attend pre-bid conferences and assist the City in evaluating the bid tabulation.

Phase III - Construction Phase Services. The Consultant will provide professional services during construction to achieve a completed project in accordance with the purpose and intent of the Construction Documents.

**REQUIRED AUTHORIZATION** **CUIC ID #20SG03 NDT**

<b>Finance Department:</b>  ✓	<b>Other Authorization:</b>	<b>Other Authorization:</b>  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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Date	<b>SUBJECT:</b> Professional Engineering Services Contract between the City and Entech Civil Engineers, Inc. for On-Call Citywide Rehabilitation and Replacement of Bridge Structures/Roadways. WBS No. N-00445N-0027-3	Originator's Initials	Page 2 of 2
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The total cost of this project is \$230,000.00 to be appropriated as follows: \$200,000.00 for contract services and \$30,000.00 for CIP cost recovery.

**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/WBE INFORMATION:** The M/WBE goal for the project is set at 15%. The Consultant has proposed the following firms to achieve this goal.

<u>Name of Firms</u>	<u>Work Description</u>	<u>Amount</u>	<u>% of Total Contract</u>
1. Aguirre Engineering Consultants L.P.			
DBA Aguirre & Fields, L.P	Engineering Support	\$25,000.00	12.50%
2. B&E Reprographics, Inc.	Reproduction	\$5,000.00	2.50%
	TOTAL	<b>\$30,000.00</b>	<b>15.00%</b>

*pk JK TC SG*  
DWK:DRM:RK:JHK:TC:SG

Z:\design\A-SB-DIV\WPDATA\TC-SG\Project\On Call New Contract 445N-27-3 ENTECH\RCA Design New.docx

ec: Velma Laws  
Mike Pezeshki, P.E.  
Craig Foster  
WBS No.N-00445N-0027-3(1.2 DSGN RCA Contract)




# CITY OF HOUSTON

Public Works and Engineering  
Department

## Interoffice

Correspondence

To: Robert Gallegos  
Deputy Assistant Director  
Affirmative Action

From:   
John Kuo, P.E.  
Assistant Director  
Street and Bridge Engineering Section  
Engineering and Construction Division  
Date: November 18, 2010

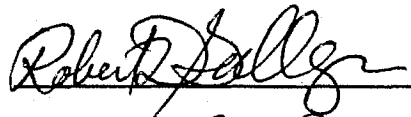
Attn: Tony Henshaw

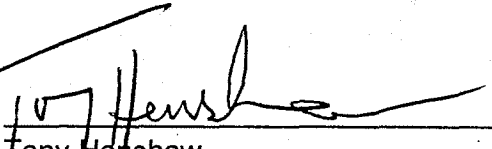
Subject: **VARIANCE OF MWBE GOAL  
ONCALL BRIDGE REHABILITATION/  
REPLACEMENT ENGINEERING  
WBS NO N-00445N-0027-3**

Attached is a letter from Entech Civil Engineers, Inc. dated November 2, 2010 requesting approval of lowering the MWBE participation for the subject project.

Due to the work-order nature of the contract which will involve multiple site visits for timely engineering assessment with limited subcontracting opportunities such as surveying and engineering support, the Public Works and Engineering Department concurs with such request and justification. This correspondence is requesting your approval of a variance to adjust the MWBE participation goal to 15%.

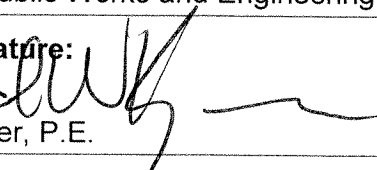

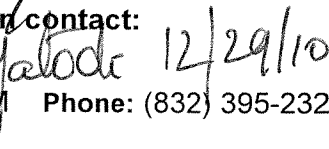
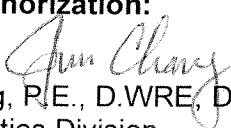

If you need additional information, please contact me at 832-395-2234 or Mr. Sudarshan Gouni, P.E., Project Manager, at 832-395-2231.

Approved:   
Date: NOV 22, 2010

  
Tony Henshaw  
Manager, PWE Small Business  
Development

JHK:TC:sgd  
Z:\design\A-SB-DIV\WPDATA\TC-SG\Project\On Call New Contract 445N-27-3 ENTECH\Waiver Request.docx

C: File N-000445N-0027-3 (1.2)

<b>SUBJECT:</b> Additional Appropriation to Professional Engineering Services Contract between the City and Chiang, Patel & Yerby, Inc. for On-Call Engineering for Water/Wastewater Utility Facilities Improvements. W.B.S. No. S-000019-0039-3/R-000019-0039-3.		<b>Page</b> 1 of 2	<b>Agenda Item #</b>  21
<b>From: (Department or other point of origin):</b> Department of Public Works and Engineering		<b>Origination Date</b>	<b>Agenda Date</b> FEB 16 2011
<b>Director's Signature:</b>  Daniel W. Krueger, P.E.		<b>Council District affected:</b>  ALL 	
<b>For additional information contact:</b>  Ravi Kaleyatodi, P.E., CPM Phone: (832) 395-2326 Senior Assistant Director		<b>Date and identification of prior authorizing Council action:</b> Ordinance #: 2007-0216 Dated: 02/14/2007 Ordinance #: 2008-0061 Dated: 01/23/2008	
<b>Recommendation: (Summary)</b> Approve an Ordinance appropriating Additional Funds			
<b>Amount and Source of Funding:</b> \$1,592,300.00 from the Water and Sewer System Consolidated Construction Fund No. 8500. <i>M.P. 1/5/2011</i> Original (previous) appropriations of \$790,000.00 from Water and Sewer System Consolidated Construction Fund No. 8500.			
<b>PROJECT NOTICE/JUSTIFICATION:</b> This project is part of the City's program to provide engineering services for the existing water and wastewater utility facilities citywide. This project will provide Professional Engineering Services on an emergency basis throughout the City at various wastewater facilities.			
<b>DESCRIPTION/SCOPE:</b> Under the scope of the Contract, the Consultant will provide on-call engineering services to deal with specific problems or unit operations. Work orders will be issued as needed and may include Phase I Preliminary Design, Phase II Final Design, Phase III Construction Phase Services and Additional Services. Basic Services Fee for Phase I is based on cost of time and material with a not to exceed agreed upon amount. The Basic Services Fees for Phase II and Phase III will be negotiated on a lump sum amount after the completion of Phase I items.			
<b>LOCATION:</b> The project area is located throughout the City.			
<b>PREVIOUS HISTORY AND SCOPE:</b> The original Contract and the subsequent additional appropriation were approved by City Council on February 14, 2007 and January 23, 2008 under Ordinance No. 2007-0216 and Ordinance No. 2008-0061, respectively. The scope of services under the original contract consisted of performing engineering professional services on an as-needed basis. Work Orders are initiated to correct specific problems at any given utility facility, hence avoiding imminent regulatory compliance safety issues, or production. Additional funds are needed to complete the additional proposed services which were not budgeted.			
<b>REQUIRED AUTHORIZATION</b>		<b>CUIC ID #20IMR67</b>	
<b>Finance Department:</b>	<b>Other Authorization:</b>  Jun Chang, P.E., D.WRE, Deputy Director Public Utilities Division	<b>Other Authorization:</b>  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division	

**SUBJECT:** Additional Appropriation to Professional Engineering Services Contract between the City and Chiang, Patel & Yerby, Inc. for On-Call Engineering for Water/Wastewater Utility Facilities Improvements. W.B.S. No. S-000019-0039-3/R-000019-0039-3.

**Originator's  
Initials**

**Page  
1 of 2**

**SCOPE OF THIS SUPPLEMENT AND FEE:** The consultant has completed eleven work orders to date and has five additional work orders associated with Northside sanitary sewer over flow elimination emergency purchase order, Design and Construction Phase Services for the WCID #47 wastewater treatment plant project, Construction Phase Services for chemical feed station containment project, Construction Phase Services for the WCID #23 and the relocation of an emergency generator from southwest wastewater treatment plant to northwest wastewater treatment plant. This supplement will provide continued design and technical support services for the aforementioned work orders. An amount of \$1,384,592.00 is budgeted for Basic and Additional Services to be paid as a lump sum or on a reimbursable basis. The Additional Services are currently anticipated to include surveying, geotechnical investigation, storm water pollution prevention, traffic control plan, easement acquisitions and other services.

The requested Additional appropriation is \$1,592,300.00 to be appropriated as follows: \$1,384,592.00 for Contract Services, \$207,708.00 for CIP Cost Recovery.

**M/WBE INFORMATION:** The M/WBE goal established for this project is 14% due to the uncertainty related to scope of work and services required. The original Contract and the subsequent additional appropriation were approved by Ordinance No. 2007-0216 and Ordinance No. 2008-0061 for a total of \$715,000.00. The consultant has been paid \$481,295.16 (67.3%) to date. Of this amount \$25,548.69 (5.31%) has been paid to M/WBE sub-consultants to date. Assuming approval of the requested additional appropriation the contract amount will increase to \$2,099,592.00. The consultant proposes the following plan to meet the M/WBE goal:

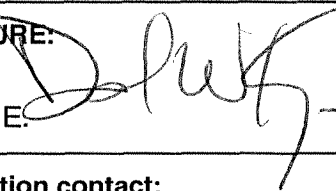

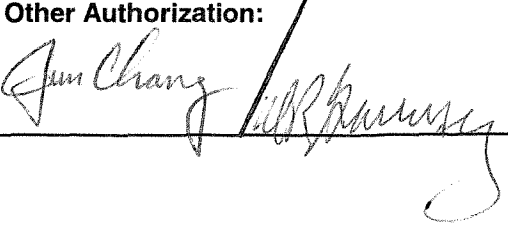
<u>Name of Firms</u>	<u>Work Description</u>	<u>Amount</u>	<u>% of Total Contract</u>
Prior M/WBE Work		\$ 25,548.69	1.22%
1. Amani Engineering, Inc.	Surveying Services	\$ 35,000.00	1.67%
2. Geotest Engineering, Inc.	Geotechnical Services	\$ 25,000.00	1.19%
3. ESPA CORP.	Construction Phase Services	\$100,000.00	4.76%
4. Kalluri Group, Inc.	Engineering Services	\$ 40,000.00	1.90%
5. KIT Professionals, Inc.	Engineering Services	\$ 61,000.00	2.91%
6. B & E Reprographics, Inc.	Reproduction Services	\$ 15,000.00	0.71%
	<b>TOTAL</b>	<b>\$301,548.69</b>	<b>14.36%</b>

  
DWK:DRM:RK:EN:IMR:pa

c: File S/R-000019-0039-3

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Approve an Ordinance Awarding a Contract for Maintenance and Support of SolarBee Equipment for the Public Works & Engineering Department.		<b>Category</b> 4	<b>Page</b> 1 of 2	<b>Agenda Item #</b> 22
<b>FROM (Department or other point of origin):</b> Public Works and Engineering Department		<b>Origination Date</b> January 5, 2011		<b>Agenda Date</b> FEB 16 2011
<b>DIRECTOR'S SIGNATURE:</b>  Daniel W. Krueger, P.E.		<b>Council District affected:</b> All		
<b>For additional information contact:</b> David Guernsey Assistant Director		<b>Date and identification of prior authorizing Council action:</b> N/A		
<b>RECOMMENDATION: (Summary)</b> Approve an Ordinance Awarding a Sole Source Contract to Medora Environmental, Inc. DBA SolarBee, Inc. in an amount not to exceed \$331,540.00 for Maintenance and Support of SolarBee Equipment for Public Works and Engineering Department.				
<b>Amount and Source of Funding:</b> \$331,540.00 PWE-W & S System Operating Fund (8300) <i>Ry 2/1/11</i> FY11: \$60,000.00 Out-Years: \$271,540.00				
<b>SPECIFIC EXPLANATION:</b> The Director of Public Works and Engineering Department recommends City Council approve an ordinance awarding a sole source contract to Medora Environmental, Inc. DBA SolarBee, Inc. for a three-year contract with two one-year options, in an amount not to exceed \$331,540.00 for the Purchase of SolarBee Maintenance and Support Plan for Public Works and Engineering Department (PW&E). The PW&E Director may terminate this contract at any time upon 30-days written notice to the contractor.				
<b>SCOPE OF SERVICES:</b> Medora Environmental, Inc. DBA SolarBee, Inc. shall furnish all labor, tools, supplies, parts, materials, equipment, transportation and facilities necessary to provide maintenance and repair services for the twenty (20) SolarBee machines for the Public Works & Engineering Department. Such services shall include, but are not limited to, structural repairs and replacement parts needed from damage incurred for any reason including acts of nature, accidents, and vandalism. Contractor shall upgrade hardware, software, and firmware for the SolarBee machines as the upgrade become available.				
<b>Pay or Play:</b> 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 has elected to pay into the Contractor Responsibility Fund in compliance with City policy.				
<b>REQUIRED AUTHORIZATION</b>				<b>CUIC ID# 20TM07</b> <i>NO</i>
<b>Finance Department</b>	<b>Other Authorization:</b> 		<b>Other Authorization:</b> 	

1/05/2011	<b>SUBJECT:</b> Approve an Ordinance Awarding a Contract for Maintenance and Support of SolarBee Equipment for the Public Works & Engineering Department.	<b>Originator's Initials</b>  TM	<b>Page</b> 2 of <u>2</u>
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The SolarBee units are floating on Lake Houston to help make the City of Houston's drinking water taste better. The twenty (20) units consist of a small solar panel, a fan, motor and a battery. Solar power charges the battery, which then generates electricity to turn the motor. These units circulate water and help keep it fresh by preventing the formation of algae. The device monitors the water making the treatment of the water easier and more palatable.

This recommendation is made in pursuant to Chapter 252, Section 252.022 (a) (7) (D) of the Texas Local Government Code for exempt procurements.

**ESTIMATED SPENDING AUTHORITY**

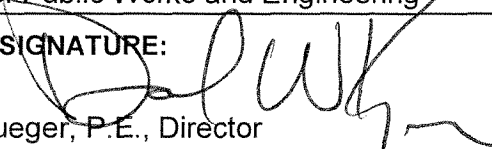
<b>Department</b>	<b>FY 11</b>	<b>Out-Years</b>	<b>Total</b>
Public Works & Engineering	\$60,000.00	\$271,540.00	\$331,540.00

**M/WBE INFORMATION:** M/WBE Zero Percentage Goal Document approved by Affirmative Action Division.

c:  
 Jun Chang  
 Yvonne Forrest  
 Robert Gallegos

<b>SUBJECT:</b> Contract Award for Chemical Feed Station Repairs and Containment Walls at Dollywright, Garden Villas and Eddington Lift Stations. W.B.S. No. R-000265-0074-4.	<b>Page</b> 1 of 2	<b>Agenda Item #</b>  23
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<b>FROM: (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date:</b>	<b>Agenda Date:</b> FEB 16 2011
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<b>DIRECTOR'S SIGNATURE:</b>  Daniel W. Krueger, P.E., Director	<b>Council District affected:</b> B, I <i>IMR</i>
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<b>For additional information contact:</b> <i>Ravi Kaleyatodi 1/20/11</i> Ravi Kaleyatodi, P.E., CPM Phone: (832) 395-2326 Senior Assistant Director	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION: (Summary)**  
Accept low bid, award construction Contract and appropriate funds.

**Amount and Source of Funding:**  
\$545,200.00 Water and Sewer System Consolidated Construction Fund No. 8500.  
*W.P. 1/21/2011*

**PROJECT NOTICE/JUSTIFICATION:** This project is required to control operation and maintenance costs of chemical feed stations and construct chemical spill containment walls around chemical storage tanks to prevent future environmental hazard and comply with regulatory agencies requirements at the existing lift stations.

**DESCRIPTION/SCOPE:** This project consists of rehabilitation and installation of enhancements to the Chemical Feed Systems at the Dollywright, Garden Villas and Eddington Lift Stations. The Contract duration for this project is 180 calendar days. This project was designed by Chiang Patel & Yerby, Inc.

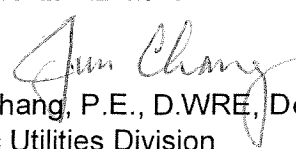

**LOCATION:** The three project areas are located as follows:

<u>Lift Station Name</u>	<u>Address</u>	<u>Key Map Grid</u>
Dollywright	1825 1/2 Dollywright	412S
Garden Villas	7375 Sims	534Z
Eddington	1425 Eddington	494T

**BIDS:** Bids were received on November 18, 2010. The six (6) bids are as follows:

<u>Bidder</u>	<u>Bid Amount</u>
1. Resicom, Inc.	\$467,983.50
2. R & B Group, Inc.	\$492,360.00
3. R J Construction Company, Inc.	\$494,000.00
4. Desert Eagle, LLC (dba Panorama)	\$509,244.00
5. LEM Construction Co., Inc.	\$530,850.00
6. Industrial TX Corp.	\$538,640.00

**REQUIRED AUTHORIZATION** **CUIC ID# 20IMR66**

<b>Finance Department</b>	<b>Other Authorization:</b>  Jun Chang, P.E., D.WRE, Deputy Director Public Utilities Division	<b>Other Authorization:</b>  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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Date	Subject: Contract Award for Chemical Feed Station Repairs and Containment Walls at Dollywright, Garden Villas and Eddington Lift Stations. W.B.S. No. R-000265-0074-4.	Originator's Initials  IMR	Page 2 of 2
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**AWARD:** It is recommended that this construction Contract be awarded to Resicom, Inc. with a low bid of \$467,983.50 and that Addendum Number 1 be made a part of this Contract.

**PROJECT COST:** The total cost of this project is \$545,200.00 to be appropriated as follows:

- Bid Amount \$467,983.50
- Contingencies \$ 23,399.18
- Engineering and Testing Services \$ 21,000.00
- CIP Cost Recovery \$ 32,817.32

Engineering and Testing Services will be provided by Aviles Engineering Corporation under a previously approved contract.

**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 has elected to pay into the Contractor Responsibility Fund in compliance with City policy.

**M/WBE PARTICIPATION:** No M/WBE participation goal has been established for this project.

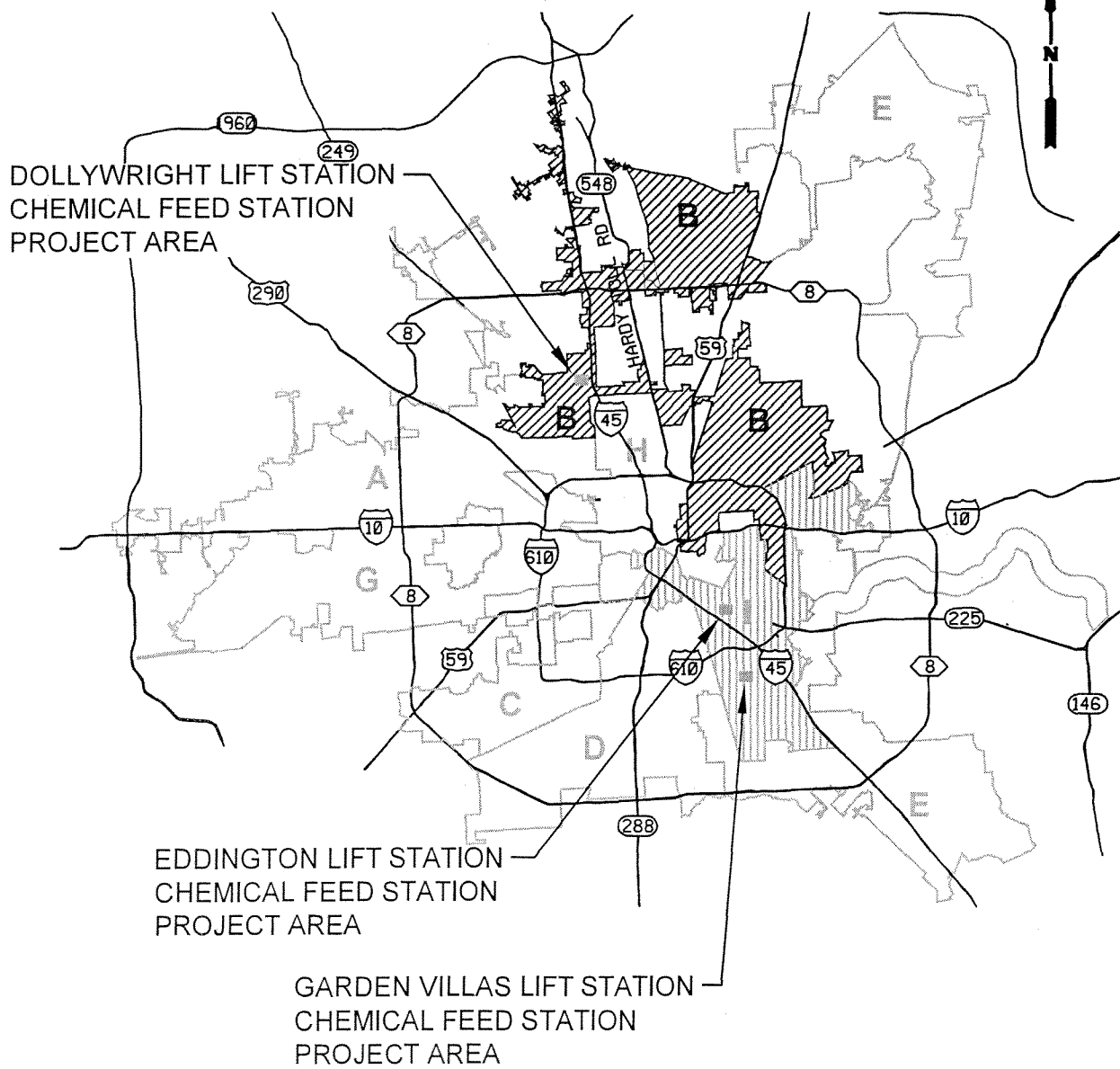
All known rights-of-way, easements and/or right-of-entry required for the project have been acquired.



DWK:DRM:RK:EN:IMR:pa

c: Robert Gallegos  
Mike Pezeshki, P.E.  
File No. R-000265-0074-4





- COUNCIL DISTRICTS
- A - BRENDA STARDIG
  - B - JARVIS JOHNSON
  - C - ANNE CLUTTERBUCK
  - D - WANDA ADAMS
  - E - MIKE SULLIVAN
  - F - AL HOANG
  - G - OLIVER PENNINGTON
  - H - EDWARD GONZALES
  - I - JAMES G. RODRIGUEZ

- AT LARGE 1 - STEPHEN COSTELLO
- AT LARGE 2 - SUE LOVELL
- AT LARGE 3 - MELISSA NORIEGA
- AT LARGE 4 - C.O. "BRAD" BRADFORD
- AT LARGE 5 - JOLANDA "JO" JONES

**CP&Y** 2925 Briarpark Suite 850, Houston, TX, 77042  
 (713)532-1730, Fax (713)532-1734

**CITY OF HOUSTON**  
 DEPARTMENT OF PUBLIC WORKS AND ENGINEERING

**CHEMICAL FEED STATION REPAIRS AND  
 CONTAINMENT WALLS AT THE DOLLYWRIGHT,  
 GARDEN VILLAS AND EDDINGTON LIFT STATIONS  
 PROJECT LOCATION AND  
 COUNCIL DISTRICT BOUNDARIES**

WBS NO. R-000265-0074-4	CITY OF HOUSTON PM IRAJ M. RANJBAR, P.E.	
DRAWING SCALE NONE	DATE JAN 2011	SHEET NO. 1 OF 1

**REQUEST FOR COUNCIL ACTION**

<b>TO:</b> Mayor via City Secretary		<b>RCA #</b>	
<b>SUBJECT:</b> Ordinance granting a Commercial Solid Waste Operator Franchise	<b>Category #</b> <i>2nd reading</i>	<b>Page 1 of 1</b>	<b>Agenda Item#</b> <i>24 29</i>
<b>FROM: (Department or other point of origin):</b> Alfred J. Moran, Director Administration & Regulatory Affairs	<b>Origination Date</b> 1/25/11	<b>Agenda Date</b> <del>FEB 09 2011</del>	
<b>DIRECTOR'S SIGNATURE:</b> <i>[Signature]</i>	<b>Council Districts affected:</b> ALL		<i>FEB 16 2011</i>
<b>For additional information contact:</b> Juan Olguin <i>JFO</i> Phone: (713) 837- 9623 Nikki Cooper Phone: (713) 837- 9889	<b>Date and identification of prior authorizing Council Action:</b> Ord. # 2002-526 – June 19, 2002; Ord. # 2002-1166-December 18, 2002.		

**RECOMMENDATION: (Summary)**  
Approve an ordinance granting a Commercial Solid Waste Operator Franchise

<b>Amount of Funding:</b> REVENUE	<b>FIN Budget:</b>
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**SOURCE OF FUNDING:**     General Fund     Grant Fund     Enterprise Fund     Other (Specify)

**SPECIFIC EXPLANATION:**

It is recommended that City Council approve an ordinance granting a Commercial Solid Waste Operator Franchise to the following solid waste operator pursuant to Article VI, Chapter 39. The proposed Franchisee is:

- SOS Liquid Waste Haulers, LTD Co.

The proposed ordinance grants the Franchisee 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, the Franchisee agrees to pay to the City an annual Franchise Fee equal to 4% of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the franchise, the City has the right to inspect, and the company has the duty to maintain, required customer records during regular business hours. The franchise contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed franchise terms expire on December 31, 2013.

The Pay or Play Program does not apply to the Commercial Solid Waste Operator Franchise.

**REQUIRED AUTHORIZATION**

Finance Director:

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

**SUBJECT:** Motion to set date for public hearing on the proposed amendments to the airport compatible land use regulations for George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU), and Ellington Airport (EFD), as required by Section 241.017(c) of the Texas Local Government Code.

Page  
1 of 1

Agenda Item  
#

25

**FROM (Department or other point of origin):**  
Houston Airport System

**Origination Date**  
February 11, 2011

**Agenda Date**  
FEB 16 2011

**DIRECTOR'S SIGNATURE:** *M. Mansour* *KR 2/10/11*

**Council District affected:**  
B, E, & I

**For additional information contact:**  
Eric R. Potts *ERP* Phone: 281-233-1999  
Carlos A. Ortiz *CAO* 281-233-1842

**Date and identification of prior authorizing Council action:**  
12/03/2008 (O) 2008-1052  
05/27/2009 (M) 2009-0285  
08/19/2009 (M) 2009-0618  
09/16/2009 (O) 2009-0825  
07/14/2010 (M) 2010-0543

**AMOUNT & SOURCE OF FUNDING:**  
N/A

**Prior appropriations:**  
N/A

*Suggested date 9AM - 3-9-2011*

**RECOMMENDATION: (Summary)**  
Adopt motion to set date for a public hearing on proposed amendments to Article VI, Chapter 9 of the Code of Ordinances, to amend land use regulations in the vicinity of George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU) and Ellington Airport (EFD).

**SPECIFIC EXPLANATION:**

On December 3, 2008, Council adopted Ordinance No. 2008-1052, which added new Article VI to Chapter 9 of the Code of Ordinances ("Article VI"). Article VI regulates land uses around all three Houston airports and was required in order to comply with Federal Aviation Administration (FAA) grant assurances.

The proposed amendments to Article VI would amend the definition of "sensitive land use", allow certain types of public assembly and sensitive land uses in Tier One around the airports, amend the time for submittal of applications to the Board of Adjustment, and provide that filing costs for the affidavit required in certain instances be charged to an applicant.

On January 6, 2011, the Airport Commission adopted a preliminary report and scheduled two public hearings. The Airport Commission held the hearings on February 3, 2011 and February 10, 2011 and approved the final report on February 10, 2011 recommending approval of the proposed amendments to Article VI.

The suggested date for the City Council public hearing is March 9, 2011.

**REQUIRED AUTHORIZATION**

<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>
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26

MOTION NO. 2011

FEB 16 2011

MOTION by Council Member Lovell 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 Reytec Construction Resources, Inc., for Storm Drainage Improvements in the Fonn Villas Subdivision, WBS No. M-000249-0002-4, be adopted, and the final contract amount of \$17,086,999.40 is hereby approved by the City Council and the work be accepted and final payment is hereby authorized.

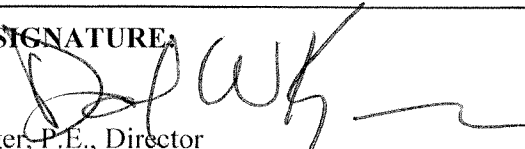

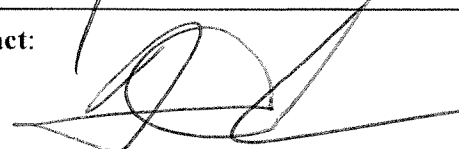

Seconded by Council Member Gonzalez

On 02/09/2011 the above motion was tagged by Council Member Pennington.

mla

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Accept Work for Storm Drainage Improvements in the Fonn Villas Subdivision; WBS No. M-000249-0002-4.	<b>Category #1,7</b>	<b>Page 1 of 2</b>	<b>Agenda Item #</b> 26 <del>3</del>
<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b>		<b>Agenda Date</b> FEB 16 2011 <del>FEB 08 2011</del>
<b>DIRECTOR'S SIGNATURE:</b>  Daniel W. Krueger, P.E., Director	<b>Council District affected:</b> G 		
<b>For additional information contact:</b> J. Timothy Lincoln, P.E. Senior Assistant Director  <b>Phone:</b> (832) 395-2355	<b>Date and identification of prior authorizing Council action:</b> Ord. # 2008-335 dated: 04/16/2008 		

**RECOMMENDATION:** (Summary) Pass a motion to approve the final Contract Amount of \$17,086,999.40 or 4.99% over the original Contract Amount, accept the Work and authorize final payment.

**Amount and Source of Funding:** No additional funding required. Total (original) appropriation of \$18,524,000.00 with \$12,274,000.00 from the Drainage Improvements Commercial Paper Series F Fund No. 4030, \$6,250,000.00 from the Water and Sewer Consolidated Construction Fund No. 8500.

**PROJECT NOTICE/JUSTIFICATION:** This project was part of the Storm Drainage Capital Improvement Plan (CIP) and was required to provide drainage improvements to alleviate flooding due to insufficient pipe capacity in this subdivision.

**DESCRIPTION/SCOPE:** This project consisted of the construction of approximately 5,915 linear feet of reinforced concrete box storm sewer; 12,427 linear feet of 60-inch, 54-inch, 48-inch, 42-inch, 36-inch, 30-inch and 24-inch storm sewer; 2,275 linear feet of 10-inch and 6-inch sludge force main; 1,690 linear feet of 15-inch, 12-inch, 10-inch, 8-inch and 6-inch sanitary sewer; 5,820 linear feet of 54-inch, 15-inch, 12-inch, 10-inch, 8-inch and 6-inch sanitary sewer rehabilitation; 27,315 linear feet of 12-inch, 8-inch and 6-inch waterline; roadway construction and sidewalk. Van DeWiele Engineering Inc. designed the project with 700 calendar days allowed for construction. The project was awarded to Reytec Construction Resources, Inc. with an original Contract Amount of \$16,274,537.10.

**LOCATION:** The project is generally bounded by Interstate Highway 10 east Feeder Road on the north, Old Oaks Street on the south, West Bough Street on the west and Tallowood Street and Attingham Drive on the east. The project is located in Key Map Grids 489D and 489H.


**CONTRACT COMPLETION AND COST:** The Contractor, Reytec Construction Resources, Inc., has completed the work under subject Contract. The project was completed with an additional 150 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 \$17,086,999.40, an increase of \$812,462.30 or 4.99% over the original Contract Amount.

The increased cost is a result of difference between planned and measured quantities. This increase is primarily the result of Change Order No. 1 and overrun in various bid items, including Basic Items, Paving Items, Storm Items, Wastewater Items and Water Items, which were necessary to complete the project.

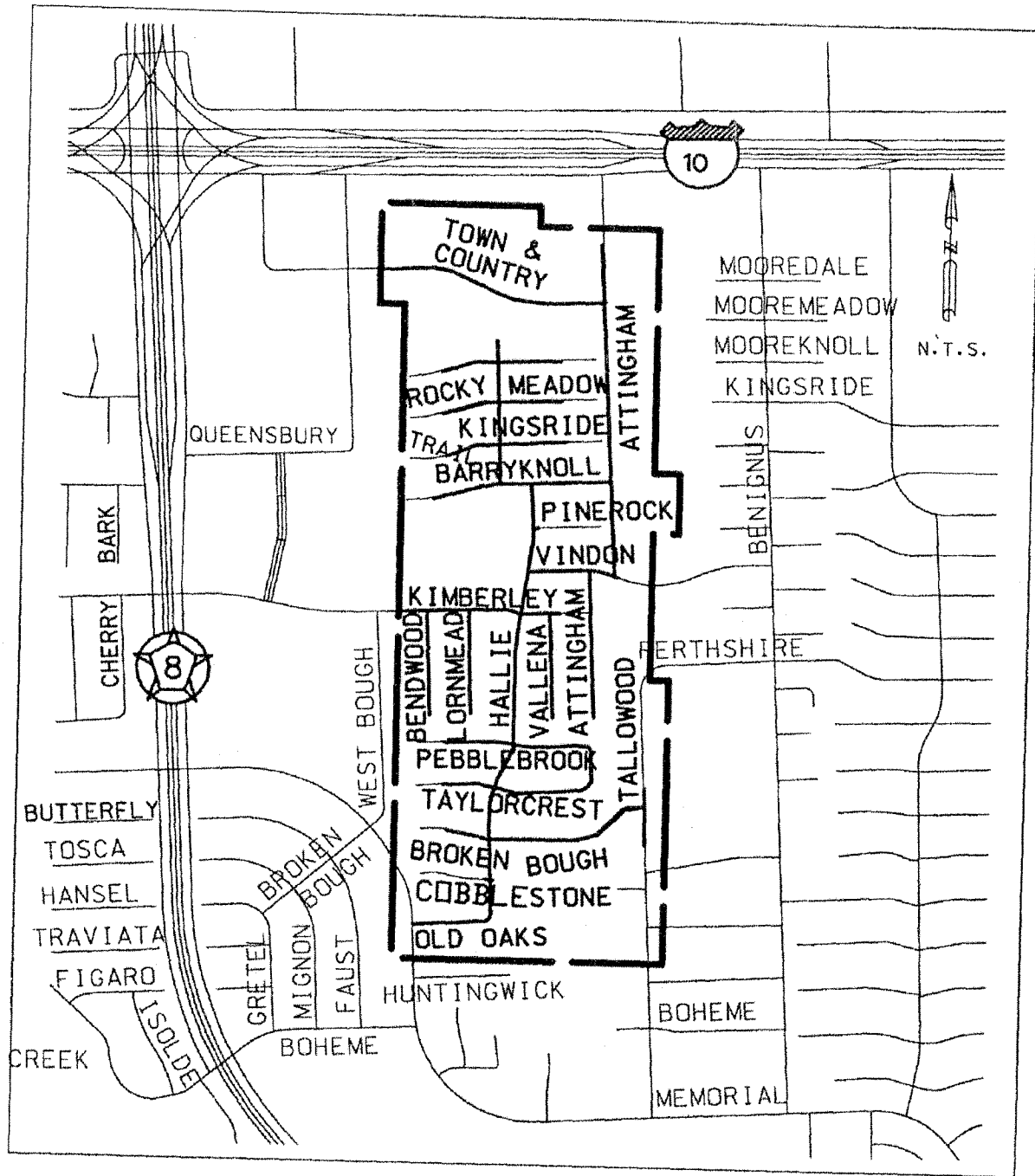
REQUIRED AUTHORIZATION

20HA101

NOX

<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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VICINITY MAP

N.T.S.

KEY MAP 489 D & H  
 GIMS MAP #4957a & #4957b  
 #4958c & #4958d  
 COUNCIL DISTRICT 'G'

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> District Office Lease with The Honorable Sheila Jackson Lee, Member of the U.S. House of Representatives, at the Acres Homes Multi-Service Center, 6719 West Montgomery Road, for the Department of Health and Human Services	<b>Page</b> 1 of 1	<b>Agenda Item</b> 27-16

<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b>	<b>Agenda Date</b> <del>FEB 09 2011</del>
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<b>DIRECTOR'S SIGNATURE:</b> Scott Minnix <i>Scott D. Minnix 1/25/11</i>	<b>Council District affected:</b> B	FEB 16 2011
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<b>For additional information contact:</b> Jacquelyn L. Nisby <i>JLN</i> Phone: (832) 393-8023	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION:** Approve and authorize a District Office Lease with The Honorable Sheila Jackson Lee, Member of the U.S. House of Representatives (Tenant), for lease space at the Acres Homes Multi-Service Center, 6719 West Montgomery Road, for the Department of Health and Human Services (DHHS).

<b>Amount and Source Of Funding:</b> Revenue	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:** The General Services Department recommends approval of a District Office Lease with The Honorable Sheila Jackson Lee, Member of the U.S. House of Representatives (Congresswoman Lee) for 120 square feet of lease space at the Acres Homes Multi-Service Center, located at 6719 West Montgomery Road. Congresswoman Lee has utilized this space since May 1, 2009 as a district office space. The prior lease commenced on May 1, 2009 and expired on January 2, 2011. Congresswoman Lee has remained in possession of the leased premises as a tenant from month-to-month at a rental of \$214.00 per month (\$1.78 psf per month/ \$21.40 psf per year).

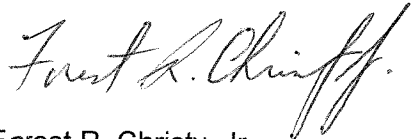

The proposed new District Office Lease will commence on January 3, 2011 and expire on January 2, 2013, at the current monthly rental of \$214.00. Either party has the right to terminate the agreement at any time by providing 30-days prior written notice to the other party.

The City is responsible for maintenance of the building.

SM:BC:JLN:RB:ddc

xc: Marty Stein, Jacquelyn L. Nisby, Anna Russell, and Claudette Manning

**REQUIRED AUTHORIZATION** CUIC ID# 25 RB 112

<b>General Services Department:</b>   Forest R. Christy, Jr. Director, Real Estate Division	<b>Department of Health and Human Services:</b>   Stephen L. Williams, M.Ed., M.P.A. Director
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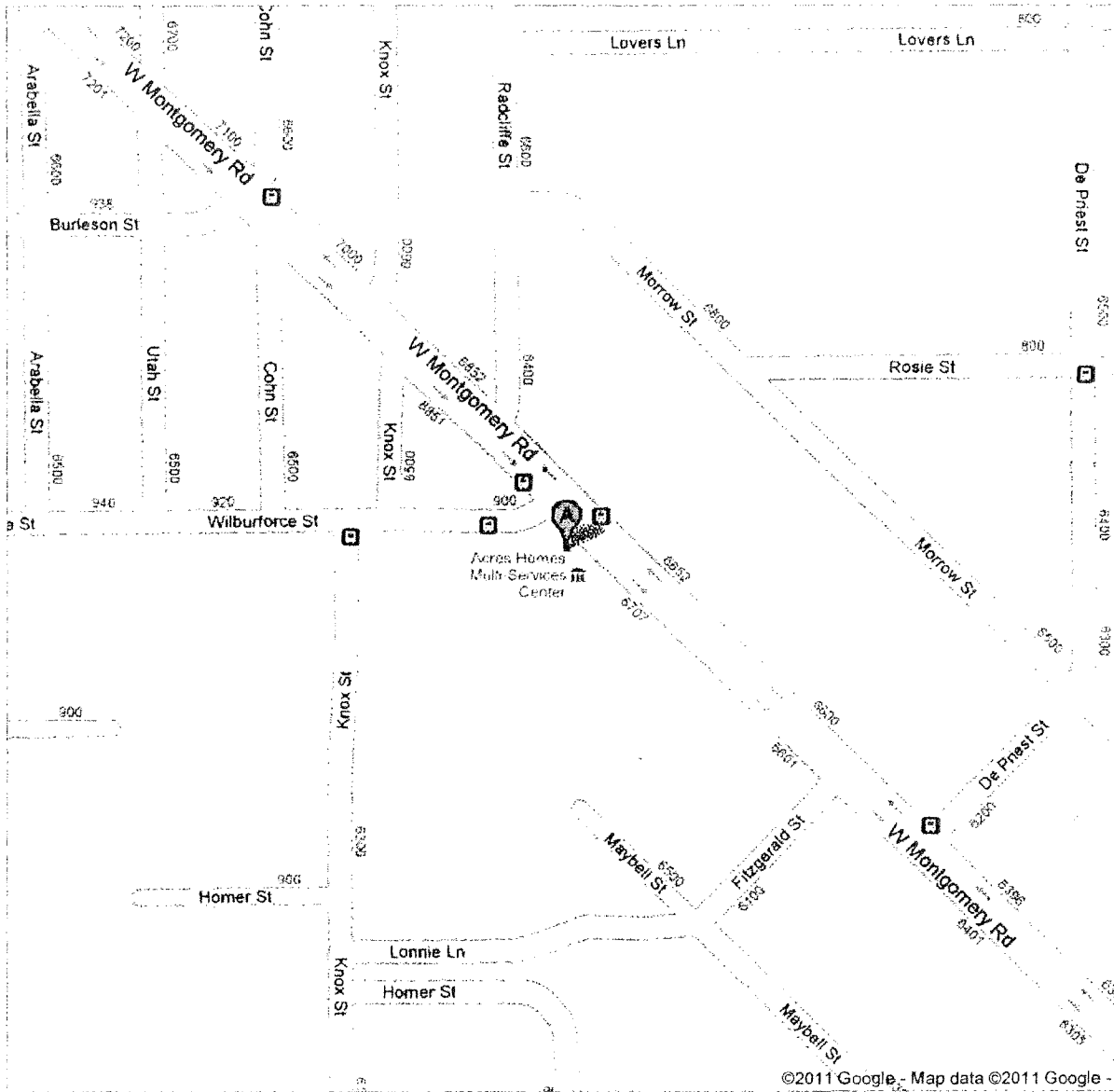





Address 6719 W Montgomery Rd  
Houston, TX 77091

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SUBJECT: Approve an ordinance authorizing a contract with Bickerstaff Heath Delgado Acosta LLP, for legal services relating to redistricting		Page 1 of 1 Agenda Item # 28 #7
FROM (Department or other point of origin):  Legal Department	Origination Date January 25, 2011	Agenda Date <del>FEB 09 2011</del> FEB 16 2011
DIRECTOR'S SIGNATURE: 	Council District affected: All	
For additional information contact: David Feldman Phone: 832.393.6412	Date and identification of prior authorizing Council action:  N/A	
RECOMMENDATION: (Summary) That City Council approve an ordinance approving and authorizing a contract with Bickerstaff Heath Delgado Acosta LLP for legal services relating to the City's 2011 redistricting.		
Amount and Source of Funding: General Fund \$100,000		
SPECIFIC EXPLANATION:  Since 1985, the legal firm Bickerstaff Heath Delgado Acosta LLP ("the Firm") has represented the City in redistricting matters and litigation. C. Robert Heath, a partner in the Firm, is a nationally-recognized expert on redistricting and has invaluable experience and involvement in the City's redistricting history.  While the Firm's involvement in 2011 redistricting will be less than in the past due to the City Attorney's active involvement in the process, expert advice and assistance will still be necessary, thus, the Firm will, as called upon by the City Attorney: <ul style="list-style-type: none"> <li>participate in the City's public hearings on redistricting,</li> <li>review the City's proposed redistricting plan and provide advice on the merits of proposed plans,</li> <li>assist with the City's submission of its plan to the DOJ for preclearance and responses to requests from the DOJ for additional information, and</li> <li>advise and assist with any litigation challenging the City's redistricting process or plan.</li> </ul> It is recommended that Council pass an ordinance approving the proposed contract with Bickerstaff Heath Delgado Acosta LLP for the purposes and reasons set forth above.		
REQUIRED AUTHORIZATION		
Other Authorization:	Other Authorization:	Other Authorization: