

AGENDA - COUNCIL MEETING - TUESDAY - SEPTEMBER 21, 2010 - 1:30 P. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS

PRAYER AND PLEDGE OF ALLEGIANCE - Council Member Hoang

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 - SEPTEMBER 22, 2010 - 9:00 A. M.

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

MAYOR'S REPORT

CONSENT AGENDA NUMBERS 1 through 28

MISCELLANEOUS - NUMBERS 1 through 3

1. REQUEST from Mayor for confirmation of the appointment of **MS. CHRISTY B. SMIDT** to Position Four to the **AIRPORT BOARD OF ADJUSTMENT**, for a term to expire February 1, 2011
2. REQUEST from Mayor for confirmation of the appointment of **DR. NORMA SANTOS-MENDOZA** to Position Eleven to the **MILLER THEATER ADVISORY BOARD**, for a term to expire April 24, 2014

AGENDA - SEPTEMBER 22, 2010 - PAGE 2

MISCELLANEOUS - continued

3. RECOMMENDATION from the Director of the Finance Department to place the proposed 2010 tax rate of \$.63875 on each \$100 of taxable value on the September 29, 2010 Council Agenda

ACCEPT WORK - NUMBERS 4 and 5

4. RECOMMENDATION from Interim Director General Services Department for approval of final contract amount of \$354,853.00 and acceptance of work on contract with **MILLIS DEVELOPMENT & CONSTRUCTION, INC** for Wiley Park - 4.98% over the original contract amount - **DISTRICT I - RODRIGUEZ**
5. RECOMMENDATION from Interim Director General Services Department for approval of final contract amount of \$1,832,887.00 and acceptance of work on contract with **SPAWGLASS CIVIL CONSTRUCTION, INC** for Neighborhood Depositories at 10785 Southwest Freeway and 9003 N. Main - 4.97% over the original contract amount - **DISTRICTS C - CLUTTERBUCK and H - GONZALEZ**

PROPERTY - NUMBER 6

6. RECOMMENDATION from Director Department of Public Works & Engineering, on request from Katy Emde, reviewed and approved by the Joint Referral Committee, that the City decline the acceptance of, reject, and refuse the dedication of a ±15-foot-wide alley, from the south property line of Block 1 north to its terminus into White Oak Bayou, located adjacent to Lots 1 through 4, Brown Addition, North Side Buffalo Bayou, Parcel SY10-076 - **DISTRICT H - GONZALEZ**

PURCHASING AND TABULATION OF BIDS - NUMBER 7

7. **TOTER, INCORPORATED** for Automated Recycling Containers through the Interlocal Agreement for Cooperative Purchasing with the City of Tucson, Arizona for Solid Waste Management Department - \$119,097.25 - American Recovery & Reinvestment Act Fund

ORDINANCES - NUMBERS 8 through 28

8. ORDINANCE **AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Municipal Courts; containing findings and other provisions relating to the foregoing subject; providing for severability
9. ORDINANCE amending the Rules of Practice and Procedure for the Municipal Courts of the City of Houston; providing an effective date; providing a severability clause making various findings and provisions relating to the subject
10. ORDINANCE approving and authorizing contract between the City and the **HOUSTON ARTS ALLIANCE, THE HOUSTON MUSEUM DISTRICT ASSOCIATION, MILLER THEATRE ADVISORY BOARD, INC**, and **THEATER DISTRICT IMPROVEMENT, INC** for the support, advancement and promotion of the Arts; providing for contract payments from Hotel Occupancy Tax Revenue
11. ORDINANCE approving and authorizing first amendment to contract between the City and **AVIA PARTNERS, INC** for Elderly services provided through the Harris County Area Agency on Aging to extend the term

ORDINANCES - continued

12. ORDINANCE amending Ordinance No. 2008-0602 (Passed by City Council on June 25, 2008) to increase the maximum contract amounts and approving and authorizing first amendments to contracts between the City of Houston and **HARRIS COUNTY HOSPITAL DISTRICT, MEMORIAL HERMANN HOSPITAL SYSTEM** and **LEGACY COMMUNITY HEALTH SERVICES** for Implementing Routine HIV Services for the Houston Department of Health and Human Services - \$1,911,310.00 - Grant Fund
13. ORDINANCE approving and authorizing contract between the City of Houston and **AIDS FOUNDATION HOUSTON, INC**, providing up to \$406,485.00 in Housing Opportunities for Persons With AIDS Funds for the operation of community residences and the administration of a short-term rent, mortgage and utility assistance program, along with the provision of supportive services - **DISTRICT H - GONZALEZ**
14. ORDINANCE appropriating \$1,600,000.00 out of Airports Improvement Fund and approving and authorizing contract between the City of Houston and **CH2M HILL, INC** for Professional Environmental Consulting Services for the Houston Airport System (Project 625D) - **DISTRICTS B - JOHNSON; E - SULLIVAN and I - RODRIGUEZ**
15. ORDINANCE terminating contract authorized by Ordinance No. 2010-0005, by and between the City of Houston and West, A Thomson Reuters Business and approving and authorizing contract between the City of Houston and **WEST, A THOMSON REUTERS BUSINESS**, for On-Line Legal Research Services and Library Maintenance of Print Product Subscriptions for the Legal Department; providing a maximum contract amount - 3 Years - \$680,825.00 - General and Property and Casualty Funds
16. ORDINANCE authorizing the City Council of the City of Houston, Texas to terminate a Proclamation declaring a Local State of Disaster for the City of Houston as a result of Hurricane Ike
17. ORDINANCE approving and authorizing Lease Agreement between **LEVAN PROPERTIES, L.P., as landlord**, and the City of Houston, Texas, as tenant, for the property located at 2020 McKinney, Houston, Texas, for ten years, to be used by the Parking Management Division of the Administration and Regulatory Affairs Department - **DISTRICT I - RODRIGUEZ**
18. ORDINANCE appropriating \$15,150.12 out of Fleet/Equipment Special Revenue Fund for Purchase of a Utility Vehicle for the Houston Fire Department - **DISTRICT E - SULLIVAN**
19. ORDINANCE awarding contract to **SNR TECHNOLOGIES, LLC** for Activated Carbon Replacement and Disposal Services; providing a maximum contract amount - 3 Years with two one-year options - \$830,822.84 - Enterprise Fund
20. ORDINANCE finding and determining that public convenience and necessity for the acquisition of real property interests for rights-of-way in connection with the public improvement project known as the Chimney Rock at W. Airport Intersection Redesign Project; authorizing the acquisition by donation, purchase, or eminent domain proceedings of four parcels of land required for street purposes; said parcels to be acquired in fee simple or easement title and situated in the H.T. & B.R.R. Company Survey, A-418, in Harris County, Texas; such property being more specifically situated and located out of Unrestricted Reserves "V" and "X" of Westbury South and Unrestricted Reserves "U" and "W" of Westbury Section 4, Subdivisions in Houston, Harris County, Texas; providing for the payment of the costs of such acquisitions, including Appraisal Fees, Fees for Title Policies/Services, Recording Fees, Court Costs, and Expert Witness Fees - **DISTRICT C - CLUTTERBUCK**

ORDINANCES - continued

21. ORDINANCE appropriating \$200,000.00 out of Drainage Improvement Commercial Paper Series F Fund and approving and authorizing Interlocal Agreement between the City of Houston and **HARRIS COUNTY** to implement provisions of the Municipal Separate Storm Sewer (MS4) Permit
22. ORDINANCE approving and authorizing Cooperative Development Agreement between the City of Houston and **WILDCAT INTERESTS, L.P.** for Buffalo Speedway Design Modification **DISTRICT D - ADAMS**
23. ORDINANCE appropriating \$5,000.00 out of Drainage Improvement Commercial Paper Series F Fund, \$5,000.00 out of Street & Bridge Consolidated Construction Fund, and \$145,000.00 out of Water & Sewer System Consolidated Construction Fund for advertising costs for Various C.I.P. Projects relating to construction of facilities financed by the respective funds for the Department of Public Works & Engineering
24. ORDINANCE appropriating \$228,000.00 out of Street & Bridge Consolidated Construction Fund, awarding contract to **RESICOM, INC** for On-Call Clearing and Grubbing; 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 CIP Cost Recovery, and contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund
25. ORDINANCE No. 2010-698, passed second reading on September 15, 2010
ORDINANCE granting to **BCS RESOURCE, L.L.C., A Texas Limited Liability Company**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**
26. ORDINANCE No. 2010-699, passed second reading on September 15, 2010
ORDINANCE granting to **J. A. GAMEZ TRUCKING SERVICES, A Texas Sole Proprietorship**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions **THIRD AND FINAL READING**
27. ORDINANCE No. 2010-700, passed second reading on September 15, 2010
ORDINANCE granting to **GALLEGOS & SONS TRUCKING, A Texas Sole Proprietorship**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**
28. ORDINANCE No. 2010-701, passed second reading on September 15, 2010
ORDINANCE granting to **IESI, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

NON CONSENT AGENDA - NUMBER 29

MISCELLANEOUS

29. REVIEW on the record and make determination relative to the appeal from the decision of the General Appeals Board, filed by Richard V. Rothfelder, Attorney at Law, on behalf of Trinity Lutheran Church regarding the interpretation of a Changeable Message Sign located at 800 Houston Avenue - **DISTRICT I - RODRIGUEZ**

MATTERS HELD - NUMBERS 30 through 36

30. MOTION by Council Member Clutterbuck/Seconded by Council Member Lovell to adopt recommendation from Director Houston Airport System for approval of final contract amount of \$2,150,653.26 and acceptance of work on contract with **TJ&T ENTERPRISES, INC** for Wetlands Creation at Westside Mitigation Area, Project No. 586A - 4.81% over the original contract amount
TAGGED BY COUNCIL MEMBER JONES
This was Item 8 on Agenda of September 15, 2010
31. ORDINANCE appropriating \$120,831.70 out of Fire Consolidated Construction Fund for Structural Remediation at Fire Station No. 29 for General Services Department
TAGGED BY COUNCIL MEMBER JONES
- a. MOTION by Council Member Clutterbuck/Seconded by Council Member Sullivan to adopt recommendation from Purchasing Agent to award to **BASELINE PAVING AND CONSTRUCTION, INC** for Structural Remediation at Fire Station No. 29 for General Services Department - \$109,847.00 and contingencies for a total not to exceed \$120,831.70 - **DISTRICT I - RODRIGUEZ** - **TAGGED BY COUNCIL MEMBER JONES**
These were Items 14 and 14A on Agenda of September 15, 2010
32. ORDINANCE appropriating \$200,000.00 out of Airports Improvement Fund and approving and authorizing Amendment No. 2 to contract between the City of Houston and **CONCEPT ENGINEERS, INC** for Professional Engineering Services for the Houston Airport System (Project 615J) - **DISTRICTS B - JOHNSON; E - SULLIVAN and I - RODRIGUEZ**
TAGGED BY COUNCIL MEMBER JONES
This was Item 25 on Agenda of September 15, 2010
33. ORDINANCE approving an Agreement between the City of Houston, Texas and **AINBINDER HEIGHTS, LLC** pursuant to Chapter 380, Texas Local Government Code for Economic Development Assistance for Development of a Multi-Tenant Commercial Retail Project in the City **DISTRICT H - GONZALEZ** - **TAGGED BY COUNCIL MEMBERS GONZALEZ AND JONES**
This was Item 26 on Agenda of September 15, 2010
34. ORDINANCE appropriating \$550,000.00 out of Reimbursement of Equipment/Projects Fund; approving and authorizing contract between the City of Houston and **SOGETI USA, LLC** for analysis and design of a Queuing and Payment System for the Houston Permitting Center; providing a maximum contract amount; providing funding for contingencies relating to design and construction of facilities financed by the Reimbursement of Equipment/Projects Fund
TAGGED BY COUNCIL MEMBER BRADFORD
This was Item 28 on Agenda of September 15, 2010

MATTERS HELD – continued

35. ORDINANCE appropriating \$3,000,000.00 out of FY11 Equipment Acquisition Consolidated Fund as an additional appropriation for Houston Municipal Courts Case Management System; approving and authorizing a first amendment to the contract between the City of Houston and **SOGETI USA, LLC** for Software Design and Development Services (Approved by Ordinance No. 2009-863); providing for expenses relating to the development and implementation of the system - **TAGGED BY COUNCIL MEMBER JONES**
This was Item 38 on Agenda of September 15, 2010
36. ORDINANCE awarding contract to **RBEX, INC dba APPLE TOWING CO.** for Towing and Storage Services for Seized Vehicles for the Houston Police Department; providing a maximum contract amount - 3 Years with two one-year options - \$1,375,000.00 - Asset Forfeiture Fund
TAGGED BY COUNCIL MEMBER JONES
This was Item 39 on Agenda of September 15, 2010

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Jones 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

**CITY COUNCIL CHAMBER - CITY HALL 2nd FLOOR - TUESDAY
SEPTEMBER 21, 2010 – 2:00 PM**

AGENDA

3MIN 3MIN 3MIN

MR. HENRY RICHARDSON – 1527 Cook St. – 77006 – 917-686-3558 – Walmart – Item 33

MR. PAUL CARR – 1045 Ashland – 77008 – 713-869-0505 – 380 Agreement – Walmart issue – Item 33

NON-AGENDA

2MIN 2MIN 2MIN

MS. JACKIE PHILLIPS – 414 Troy – 77091 – 713-753-0382 – Weeded lot (vacant)

3MIN 3MIN 3MIN

MR. FRED WALTERS – Post Office Box 66667 – 77266 – 832-524-5575 – Parking Meters

MS. MICHELLE HARRIS – 12731 Braeswood Ln. – 77072 – 832-876-0339 – Hackberry Park

MS. ANNIE LYLES – 1001 Pinemont, No. 36 – 77018 – 713-263-7156 – Wrong doing of HPD Officers

MS. JOY LEVERETT – 12925 NW Freeway - 77040 – 713-376-9860 – Think Art Inc.

MS. DELOROS JONES – 9302 Rentur Dr. – 77031 – 713-272-8076 - Dispute with Water Department

MR. DENNIS WOODWARD – 943 Thornton - 77018 – 713-290-8961 – Trash in City parks by School officials

MR. JERRY BABBITT – 3307 Austin – 77004 – 713-523-5958 – Mental Health

MS. NICOLINE SECHELSKI – 1304 Elgin – 77004 – 832-205-7945 – St. Joseph House

MS. SYLVIA RODRIGUEZ – 7531 Jalna – 77055 – 832-488-9116 – La Rosa Family Services

MR. JOHN JOHNSON – 7102 Wendemere – 77088 – 832-453-1900 – Over weeded lots – Neighborhood Protection says 180 days before results

MS. BONNIE FIELDS – 14302 Norhill Point – 77044 – 281-225-4760 – Police misconduct

PREVIOUS

1MIN 1MIN 1MIN

MS. MARY TAYLOR - 1403 Fashion Hill Dr. - 77088 - 281-445-0682 – Joe Turner Parks and Recreation Director 26.82 Acres Stuebner Airline Park

PRESIDENT JOSEPH CHARLES - Post Office Box 524373 - 77052-4373 – Impostor Councilman Illegal Immigrants James G. Rodriguez vs. S. R. Gibbs – Statement



ANNISE D. PARKER
MAYOR

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

SEP 22 2010

COPY TO EACH MEMBER OF COUNCIL:

CITY SECRETARY: 9-9-10
date

COUNCIL MEMBER: _____

September 7, 2010

The Honorable City Council
City of Houston

Dear Council Members:

Pursuant to Chapter 241, Texas Local Government Code and Article VI of Chapter 9 of the City Code of Ordinances, I am nominating the following individual for appointment to the Airport Board of Adjustment, subject to Council confirmation:

Ms. Christy B. Smidt, appointment to Position Four, for a term expiring February 1, 2011.

Résumé of the nominee is attached for your review.

Sincerely,

Annise D. Parker
Mayor

AP:JC:jsk

Attachments

cc: Mr. Mario Diaz, Director, Houston Airport System
Mr. Eric Potts, Deputy Director, Planning, Design and Construction, Houston Airport System
Mr. Randy Rivin, Sr. Asst. City Attorney, Legal Department
Ms. Deborah McAbee, Sr. Asst. City Attorney, Legal Department

RECEIVED
SEP 14 2010
CITY SECRETARY

POST OFFICE BOX 1562 • HOUSTON, TEXAS 77251



ANNISE D. PARKER
MAYOR

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

2

SEP 22 2010

COPY TO EACH MEMBER OF COUNCIL:

CITY SECRETARY: 9-9-10
date

COUNCIL MEMBER: _____

September 9, 2010

The Honorable City Council
City of Houston

Dear Council Members:

Pursuant to Houston Code of Ordinances, Sections 32-243 through 32-252, I am nominating the following individual for appointment to the Miller Theater Advisory Board, subject to Council confirmation:

Dr. Norma Santos-Mendoza, appointment to Position Eleven, for a term to expire April 24, 2014.

Résumé of the nominees is attached for your review.

Sincerely,

Annise D. Parker
Mayor

AP:JC:jsk

Attachment

cc: Ms. Cissy Segall Davis, Managing Director, Miller Theatre Advisory Board
Ms. Celia Vara Valles, Chair, Miller Theatre Advisory Board

RECEIVED
SEP - 9 2010
CITY SECRETARY

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #

SUBJECT: Place the proposed tax rate of \$.63875 on each \$100 of taxable value, which is the same as last year's tax rate, on the September 29th Agenda.

Category #

Page 1 of 2

Agenda Item#

3

FROM: (Department or other point of origin):

Michelle Mitchell, Director
Finance Department

Origination Date

September 15, 2009

Agenda Date

SEP 22 2010

DIRECTOR'S SIGNATURE:

Michelle Mitchell

Council Districts affected:

All

For additional information contact:

Jack Alexander, Deputy Director **Phone:** 713-837-9880
Sylvia Shaw, Division Manager **Phone:** 713-221-0131

Date and identification of prior authorizing Council Action:

September 23; Motion No. 2009 0688

RECOMMENDATION: (Summary) That the City Council approve a motion placing the proposed tax rate of .638750 on each \$100 of taxable value on the Agenda of City Council for September 29th.

Amount of Funding:

Not Applicable

Finance Budget:

SOURCE OF FUNDING:

General Fund Grant Fund Enterprise Fund
 Other (Specify)

SPECIFIC EXPLANATION:

State law sets forth detailed requirements for the process of setting ad valorem tax rates, including public hearings, newspaper publications, and actions of the governing body. These requirements include minimum and maximum time periods for each step in the process.

Effective Tax Rate and Rollback Tax Rate

Section 26.04 (e) of the Tax Code requires that the Effective Tax Rate and the Rollback Tax Rate be reported to the governing body of each taxing unit. The Effective Tax Rate for Tax Year 2010 is \$.702247 on each \$100 of taxable value and the Rollback Tax Rate is \$.718349 on each \$100 of taxable value.

No Public Hearings

Section 26.05(d) of the Tax Code requires the City of Houston to hold two public hearings before adopting a tax rate that exceeds the rollback rate or the effective tax rate, whichever rate is lower. Since the City of Houston proposed a tax rate that does not exceed the rollback rate or the effective rate, the public hearings are not required.

Publications

Section 26.04(e) of the Tax Code requires the City of Houston to publish the effective and rollback tax rates before adopting a tax rate. Publication is required in a newspaper.

REQUIRED AUTHORIZATION

Other Authorization:

Other Authorization:

Other Authorization:

Date:	Subject: : Place the proposed tax rate of \$.638750 on each \$100 of taxable value, which is the same as last year's tax rate, on the September 29th Agenda.	Originator's Initials	Page 2 of 2
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Summary

City Council must pass a motion to place a specific proposed tax rate on a future City Council Agenda. The City Council meet to vote on the proposed tax rate may be as early as September 29th but may not be later than November 1st.

The proposed tax rate of \$.638750 on each \$100 of taxable value must be apportioned between Maintenance and Operations (M&O) and Interest and Sinking Fund (I&S). The M&O rate is \$.463362 on each \$100 of taxable value and the I&S rate is \$.175388 on each \$100 of taxable value which, when combined, equal the total tax rate of \$.638750 on each \$100 of taxable value.

It is therefore recommended that City Council pass a motion to place the proposed tax rate of \$.638750 of each \$100 of taxable value for tax year 2010 on the Agenda of City Council for September 29th.

cc: David M Feldman, City Attorney
Marty Stein, Agenda Director

SUBJECT: Accept Work Millis Development & Construction, Inc. Wiley Park WBS No. F-000756-0001-4	Page 1 of 1	Agenda Item <div style="text-align: right; font-size: 2em;">4</div>
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FROM (Department or other point of origin): General Services Department	Origination Date 9/16/10	Agenda Date SEP 22 2010
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DIRECTOR'S SIGNATURE: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr., Interim Director	Council District affected: 1
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For additional information contact: Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023	Date and identification of prior authorizing Council action: Ordinance No. 2009-1155, December 2, 2009
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RECOMMENDATION: Pass a motion approving the final contract amount of \$354,853.00 accept the work, and authorize final payment.

Amount and Source of Funding: No Additional Funding Required Previous Funding: \$381,933.00 Parks Special Fund (4012)	Finance Budget:
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SPECIFIC EXPLANATION: The General Services Department recommends that City Council approve the final contract amount of \$354,853.00 or 4.98% over the original contract amount, accept the work and authorize final payment to Millis Development & Construction, Inc. for construction services in connection with Wiley Park for the Parks and Recreation Department.

PROJECT LOCATION: 1414 Gillette Street (Key Map No. 493 P)

PROJECT DESCRIPTION: The scope of work included demolition, earthwork, drainage, concrete sidewalks, brick pavers, concrete curbs, seatwalls, ramps, site lighting, ornamental fencing, picnic shelter improvements, playground and site furniture installation, re-surfacing water playground, water playground renovations, and tree planting with irrigation.

CONTRACT COMPLETION AND COST: The contractor completed the project within 134 days: the original contract time of 120 days plus 14 days approved by Change Orders. The final cost of the project, including Change Orders is \$354,853.00 an increase of \$16,822.00 over the original contract amount.

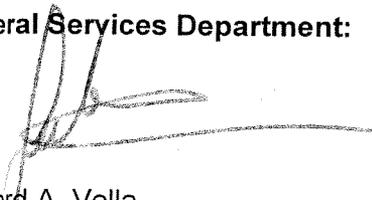
James Patterson Associates, Inc. dba White Oak Studio was the design consultant and construction manager for the project.

PREVIOUS CHANGE ORDERS: Change Orders 1-2 modified the concrete curb at playground entrance; upgraded drain pipe at the playground; replaced concrete sidewalk, removed and replaced two concrete curb ramps; repaired curb and gutter around the park; removed and replaced an existing backflow prevention device, concrete pad and cage; leveled asphalt at the ramp; removed a hazardous tree branch; repaired cracks in existing concrete pad; and added a sediment basket at the water playground.

FRC:RAV:JLN:LJ:DE:de
 c: Marty Stein, Jacquelyn L. Nisby, Mark Ross, Dan Pederson, Calvin Curtis, Morris Scott, Chris Gonzales, Martha Leyva, Tim Douglass, File 1008

REQUIRED AUTHORIZATION CUIC ID# 25PARK121

General Services Department:



Richard A. Vella
 Chief of Design & Construction Division

Parks and Recreation Department:

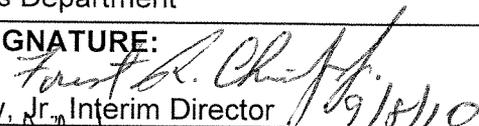


Joe Turner
 Director

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Accept Work SpawGlass Civil Construction, Inc. Neighborhood Depositories at 10785 Southwest Freeway and 9003 N. Main WBS No. L -000043-0002-4 & L-000053-0001-4	Page 1 of 2	Agenda Item <div style="text-align: right; font-size: 2em;">5</div>
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FROM (Department or other point of origin): General Services Department	Origination Date 9-16-10	Agenda Date SEP 22 2010
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DIRECTOR'S SIGNATURE:  Forest R. Christy, Jr., Interim Director	Council District affected: C, H
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For additional information contact: Jacquelyn L. Nisby Phone: 832.393.8023	Date and identification of prior authorizing Council action: Ordinance No. 2009-536; Dated 06-17-09
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RECOMMENDATION: Pass a motion approving the final contract amount of \$1,832,887.00, accept the work, and authorize final payment.

Amount and Source of Funding: No Additional Funding Required Previous Funding: \$1,903,000.00 Solid Waste Consolidated Construction Fund (4503)	Finance Budget:
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SPECIFIC EXPLANATION: The General Services Department recommends that City Council approve the final contract amount of \$1,832,887.00 or 4.97% over the original contract amount, accept the work and authorize final payment to SpawGlass Civil Construction, Inc. for construction services in connection with two new neighborhood Solid Waste Depository Facilities.

PROJECT LOCATIONS: 10785 Southwest Freeway (529Z)
 9003 N. Main (453J)

PROJECT DESCRIPTION: This project constructed two new depositories as part of the Solid Waste Management Department's program to provide heavy trash disposal and recycling facilities to strategic points within the City of Houston. The scope of work consisted of construction of reinforced retaining wall, reinforced concrete drives and storage area pavements, a service building, a storage building, site grading and drainage, building utilities, compaction equipment, a used oil recycling area, site lighting, pavement markings and site fencing.

CONTRACT COMPLETION AND COST: The contractor completed the project within 252 days: the original contract time of 184 days plus an additional 68 days approved by Change Orders. The final cost of the project, including Change Orders is \$1,832,887.00, an increase of \$86,887.00 over the original contract amount.

The project design consultant was Jacobs, Inc.

REQUIRED AUTHORIZATION		NDT CUIC ID# 25CONS164
General Services Department:  Richard A. Vella Chief of Design & Construction Division		Solid Waste Management Department:  Harry J. Hayes Director

Date	Subject: Accept Work SpawGlass Civil Construction, Inc. Neighborhood Depositories at 10785 Southwest Freeway and 9003 N. Main WBS No. L-000043-0002-4 & L-000053-0001-4	Originator's Initials WP	Page 2 of 2
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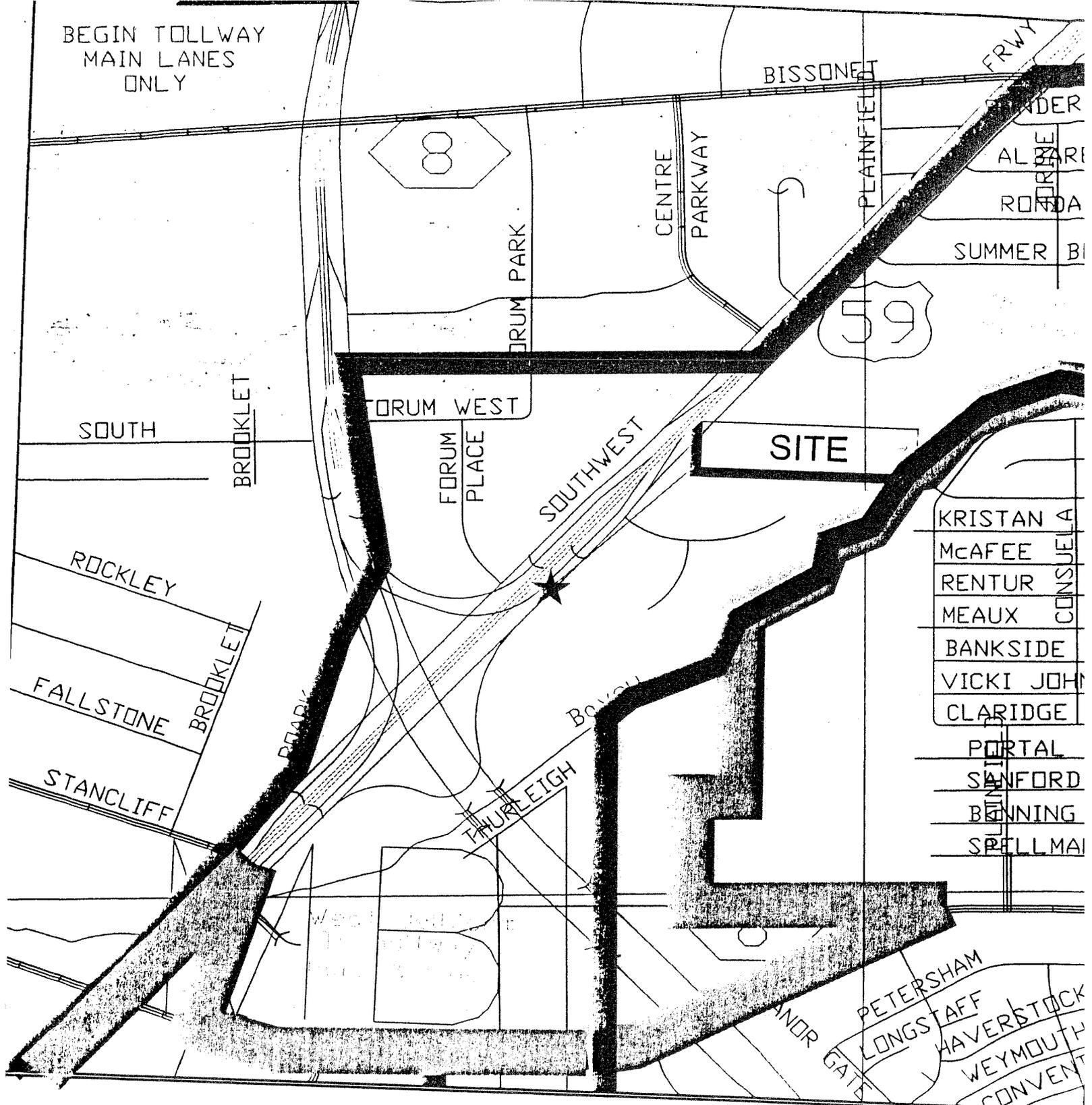
PREVIOUS CHANGE ORDERS: Change Orders 1-3 resolved issues of excavation and removal of unforeseen concrete and steel structures underground, driveway approach improvements, underground electrical service to the site and time extensions for inclement weather.

MWBE PARTICIPATION: The contract contained a 14% MBE goal and 10% SBE goal. According to the Affirmative Action and Contract Compliance Division, the contractor achieved 13.097% MBE participation and 14.313% SBE participation and was assigned an outstanding rating.

^{WP}
FRC:JLN:RAV:MCP:WP

c: Marty Stein, Christopher Gonzales, Jacquelyn L. Nisby, Velma Laws, Kim Ngyuen, Gary Readore, Gabriel Mussio, Project File 1108

BEGIN TOLLWAY
MAIN LANES
ONLY



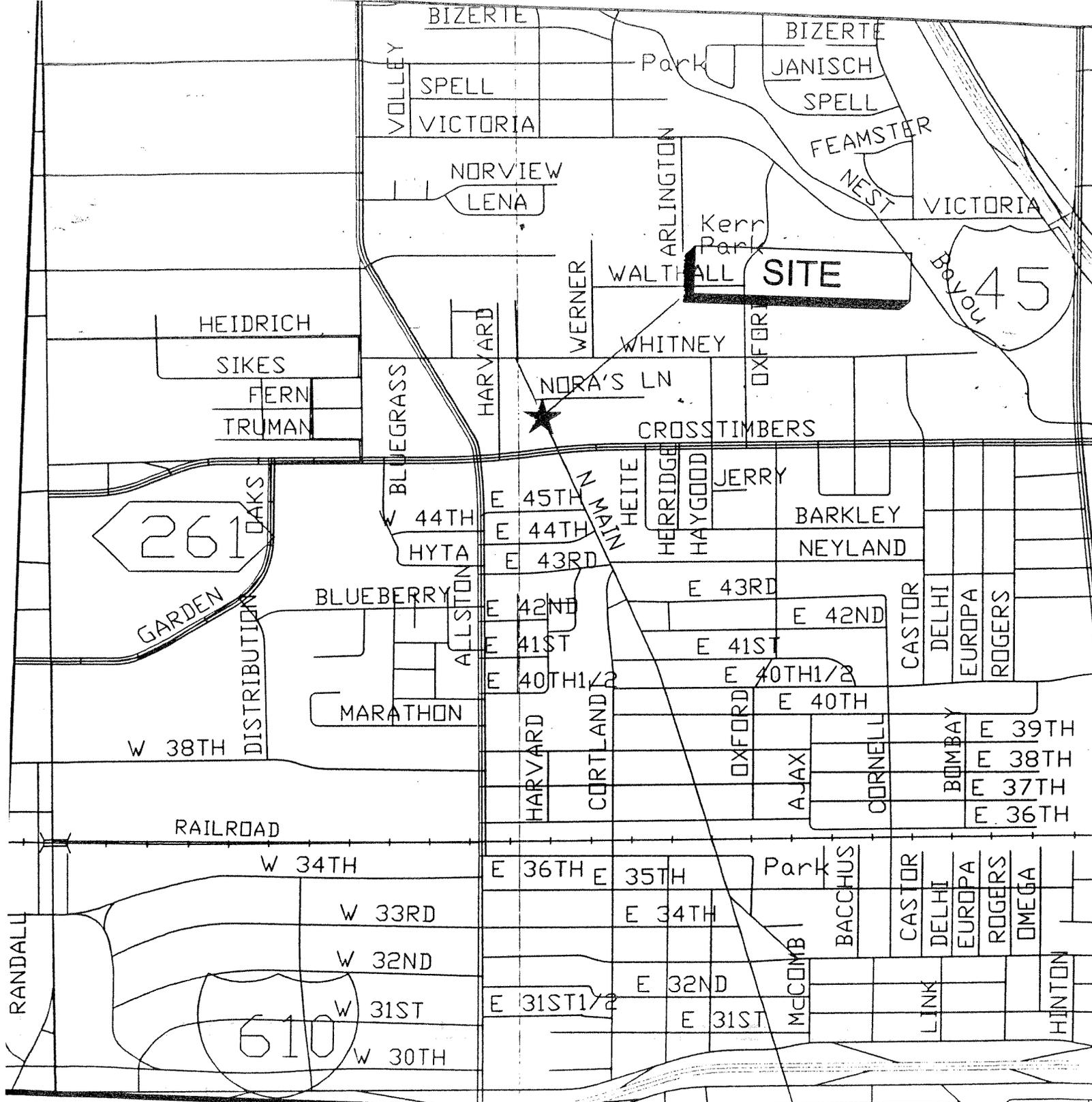
NEIGHBORHOOD DEPOSITORIES

10785 SOUTHWEST FWY
HOUSTON, TX 77074

- KRISTAN A MCAFEE
- RENTUR
- MEUX
- BANKSIDE
- VICKI JOHN
- CLARIDGE
- PORTAL
- SANFORD
- BENNING
- SPELLMAI

COUNCIL DISTRICT "C"

KEY MAP NO. 529Z



NEIGHBORHOOD DEPOSITORIES

9003 N. MAIN ST
HOUSTON, TX 77022

COUNCIL DISTRICT "H"

KEY MAP NO. 453J

SUBJECT: Request for a council motion declining the acceptance of, rejecting, and refusing the dedication of a ±15-foot-wide alley, from the south property line of Block 1 north to its terminus into White Oak Bayou, located adjacent to Lots 1 through 4, Brown Addition, North Side Buffalo Bayou. Parcel SY10-076	Page <u>1</u> of <u>1</u>	Agenda Item # <div style="text-align: right; font-size: 2em; font-weight: bold;">6</div>
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FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date <div style="text-align: center; font-size: 1.2em;">9/16/10</div>	Agenda Date <div style="text-align: center;">SEP 22 2010</div>
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DIRECTOR'S SIGNATURE: <div style="font-size: 1.5em; font-family: cursive;">  </div> Daniel W. Krueger, P.E., Director	Council District affected: H  Key Map 493E
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For additional information contact: <div style="text-align: center; font-size: 1.5em; font-family: cursive;">  </div> Nancy P. Collins Phone: (713) 837-0881 Senior Assistant Director-Real Estate	Date and identification of prior authorizing Council Action:
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RECOMMENDATION: (Summary) It is recommended City Council approve a council motion declining the acceptance of, rejecting, and refusing the dedication of a ±15-foot-wide alley, from the south property line of Block 1 north to its terminus into White Oak Bayou, located adjacent to Lots 1 through 4, Brown Addition, North Side Buffalo Bayou. **Parcel SY10-076**

Amount and Source of Funding: Not Applicable	
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SPECIFIC EXPLANATION:

Katy Emde, 6033 Glen Cove, Houston, Texas 77007, requested the non-acceptance of a ±15-foot-wide alley, from the south property line of Block 1 north to its terminus into White Oak Bayou, located adjacent to Lots 1 through 4, Brown Addition, North Side Buffalo Bayou. The alley was dedicated to the City by the Brown Addition Plat, recorded November 29, 1926. The alley was never paved or used for utility purposes. Further, the City has identified no future need for this alley. One of the abutting property owners, Katy Emde, plans to incorporate the alley into her abutting property to increase green space and address a possible drainage problem. The remaining portion of the alley will be apportioned to DIS Partners, LLP, Jeremy Carroll, Vice President. The Joint Referral Committee reviewed the request and determined the request could be processed as a non-acceptance.

Therefore, it is recommended City Council approve a council motion declining the acceptance of, rejecting, and refusing the dedication of a ±15-foot-wide alley, from the south property line of Block 1 north to its terminus into White Oak Bayou, located adjacent to Lots 1 through 4, Brown Addition, North Side Buffalo Bayou.

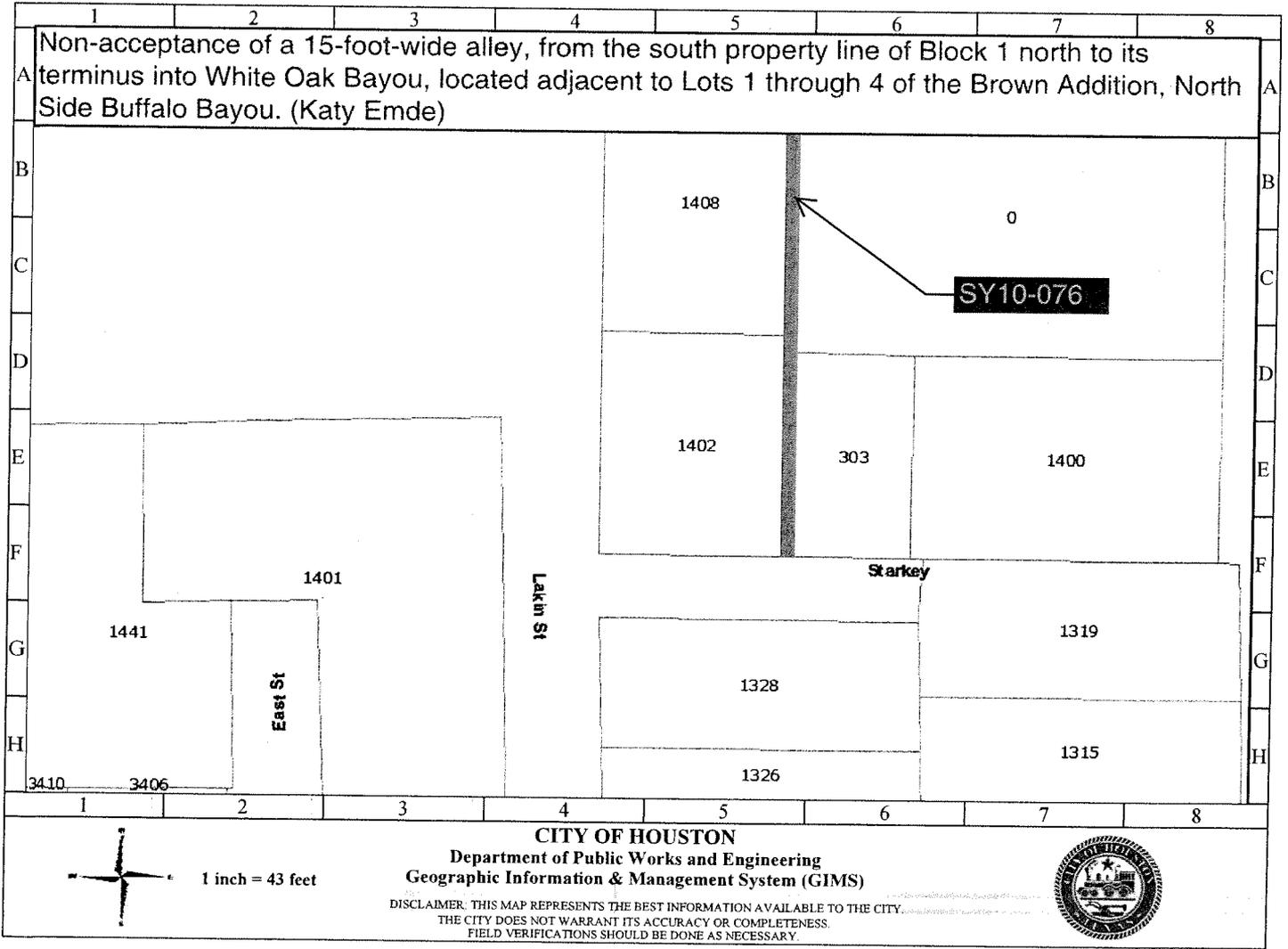
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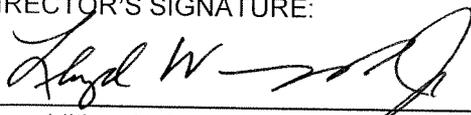
c: Jun Chang, P.E.
 David Feldman
 Rick Flanagan
 Marlene Gafrick
 Daniel Menendez, P.E.
 Marty Stein
 Jeffrey Weatherford, P.E., PTOE

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REQUIRED AUTHORIZATION

Finance Department:	Other Authorization:	Other Authorization: <div style="font-size: 1.5em; font-family: cursive;">  </div> Mark Loethen, P.E., CFM, PTOE Acting Deputy Director Planning and Development Services Division
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SUBJECT: An Ordinance Amending Chapter 16 of the City Code Relating to the Municipal Courts Department		Category #	Page 1 of 1	Agenda Item # 8
FROM (Department or other point of origin): Mayor's Office		Origination Date 9/17/10	Agenda Date September 22, 2010	
DIRECTOR'S SIGNATURE: 		Council District affected: All		
For additional information contact: Lloyd Waguespack, Deputy Chief Phone: 832-393-0856		Date and identification of prior authorizing Council action: Ord. No. 2000-325		
RECOMMENDATION: (Summary) That the City Council adopt an ordinance consolidating the municipal courts judicial and administration departments into a single municipal courts department under the direction of the presiding judge.				
Amount of Funding: N/A		F & A Budget:		
SOURCE OF FUNDING: N/A <input type="checkbox"/> General Fund <input type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund				
<input type="checkbox"/> Other (Specify)				
SPECIFIC EXPLANATION: The Administration has requested, in the interest of economy and efficiency, that the municipal courts judicial department and the municipal courts administration department be consolidated into one department, to be known as the municipal courts department, with the presiding judge serving as department director and the clerk of the municipal courts reporting to the presiding judge. All of the usual functions and duties of the respective departments will be carried out by the consolidated department. In addition, budget authority for the departments will be combined into the new department created by this ordinance.				
REQUIRED AUTHORIZATION				
F&A Director:		Other Authorization:		Other Authorization:

Chapter 16

MUNICIPAL COURTS

ARTICLE I. IN GENERAL

Sec. 16-1. Municipal courts ~~judicial department created; director.~~

(a) There is hereby created the municipal courts ~~judicial department~~ of the city; ~~which shall consist of the municipal judges and their staff.~~

(b) ~~The~~ There is hereby created the office of presiding judge of the municipal courts; ~~who~~ shall be appointed and designated by the mayor and city council from among the municipal courts judges.

(c) The presiding judge shall be the director of the municipal courts ~~judicial department~~ and shall perform the duties of that office as provided by law and as assigned by the mayor and city council.

* * *

Sec. 16-9. Juvenile case manager fund.

(a) As authorized by section (b) of article 102.0174 of the Texas Code of Criminal Procedure, there is hereby created a juvenile case manager fund ("fund"), which shall be administered under the direction of city council and may only be used to finance the salary and benefits of a juvenile case manager employed under Article 45.056 of the Texas Code of Criminal Procedure.

(b) Each defendant convicted of a fine-only misdemeanor offense shall be assessed a juvenile case manager fee of \$3.00 as a cost of court, which shall be collected by the ~~chief clerk~~ of the court or his designee and paid to the city controller for deposit into the fund. A person is considered "convicted" for purposes of this section under any of the circumstances provided in article 102.0174(e) of the Texas Code of Criminal Procedure.

(c) The juvenile case manager fee may be waived upon a showing of financial hardship under the procedures established by the municipal courts department ~~Municipal Court Judicial Department~~.

* * *

Sec. 16-11. Municipal court security officers.

(a) There is hereby created the classification of municipal court security officer within the civil service system established under article Va of the City Charter. ~~Municipal~~

~~court security officers shall be employees of the municipal courts administration department.~~

(b) Municipal court security officers shall perform duties relating to the orderly and efficient administration of the municipal courts consistent with the directives of the presiding judge and other duties as determined by the director of the municipal courts administration department.

(c) Municipal court security officers shall not be peace officers, nor shall they be regarded as police officers or as municipal courts marshals. Furthermore, they shall not be entitled to classification under chapter 143 of the Texas Local Government Code or any of the other benefits that are specially afforded to peace officers, police officers and city marshals under state laws and city ordinances.

* * *

ARTICLE II: CLERK

Sec. 16-21. Position Department created; appointment, term and duties director.

(a) There is hereby created the position of municipal courts administration department of the city, which shall consist of the chief clerk of the municipal courts and his staff.

~~_____ (b) There is hereby created the position of chief clerk of the municipal courts, who shall be appointed by the presiding judge mayor, with the approval of the city council. The chief clerk of the municipal courts shall serve at the pleasure of the presiding judge mayor. The chief clerk of the municipal courts shall be the director of the municipal courts administration department.~~

(b) The chief clerk of the municipal courts shall be the official clerk for each of the municipal courts created in this chapter and shall discharge all of the duties attendant upon that position as prescribed by this chapter and the laws of the state and the charter and ordinances of this city; provided, however, that all of the duties shall be carried out under the direction and supervision of in cooperation and consultation with the presiding judge, and further provided that each respective municipal judge shall have control over the deputy clerk clerks serving his or her court for purposes relating to the operation of the court.

(c) The duties of the ~~chief~~ clerk of the municipal courts shall be, in part, to administer oaths and affidavits, make certificates, affix the seal of the courts thereto, keep minutes of the proceedings of the courts, issue all processes and to do generally and perform all things and acts usually or necessarily performed by clerks of courts in connection with the business thereof. He shall do and perform any additional duties as may be required of him by the city council.

(d) The ~~chief~~ clerk of the municipal courts also shall, under the direction and supervision of ~~in cooperation and consultation with~~ the presiding judge of the municipal courts, perform the following duties:

- (1) Maintain a central docket for all cases filed in the municipal courts.
- (2) Keep for the period required by law permanently all dockets, books, papers, and other records of the municipal courts and to make the records available for inspection at all reasonable times by any interested party.
- (3) Maintain as part of the records of the municipal courts an index of municipal courts judgments.
- (4) Where necessary for the proper functioning of the municipal courts, provide for the preservation by microfilm of the records of the courts.

(e) The duties of the ~~chief~~ clerk of the municipal courts shall include other duties as are prescribed by applicable law.

Sec. 16-22. Oath.

The ~~chief~~ clerk of the municipal courts shall be required to take an oath to faithfully perform the duties of the office.

Sec. 16-23. Reports.

The ~~chief~~ clerk of the municipal courts shall make a daily report of all cases brought before the municipal courts, tried and dismissed, showing the number of each case, the name of the defendant, the nature of the offense and the reasons for the dismissal or acquittal.

Sec. 16-24. Deputy clerks.

(a) In cooperation with the presiding judge, the ~~chief~~ clerk, within the number of authorized deputy clerks established by the city council, shall employ a sufficient number of deputy clerks to ensure the proper operation of the respective municipal courts. The deputies shall assist the ~~chief~~ clerk in performing his duties hereunder.

(b) Each deputy clerk of the municipal courts shall act for and on behalf of the ~~chief~~ clerk of the municipal courts in the discharge of the duties of that office and shall perform any other duties as may be assigned by the ~~chief~~ clerk, with the advice and consent of the presiding judge and in cooperation with the judge in whose court any particular deputy clerk may be assigned. The deputy clerks shall take the oath of office and give the bond as may be required by law.

* * *

ARTICLE III. PRACTICE AND PROCEDURE

* * *

Sec. 16-46. Docket.

The chief clerk of the municipal courts, under the direction of the presiding judge, shall keep a docket in which he shall enter the proceedings in each trial, which docket shall show:

- (1) The style of the action.
- (2) The nature of the offense charged.
- (3) The date the warrant was issued and the return made thereon.
- (4) All pleas, written motions and orders of the court.
- (5) The jury charge and verdict, if the trial is by jury.
- (6) The judgment of the court.
- (7) Motion for new trial, if any, and the decision thereon.
- (8) If an appeal was taken.
- (9) The time when, and the manner in which the judgment was enforced.

* * *

Sec. 16-50. Fines to be paid to clerk or officer.

All fines assessed by the municipal courts shall be paid to the chief clerk of the municipal courts or some officer designated by the presiding judge to receive the same. No person is to be imprisoned for nonpayment of a fine except as set out in section 16-51 of this Code.

* * *

Sec. 16-52. Remittance of fine and court costs.

In all cases mentioned in section 16-51 of this Code, or in any other case resulting in a judgment from a municipal court, where it appears from the facts and circumstances surrounding the particular case that justice has not been served, or that an unjust or excessive fine has been imposed in the case, or for other just cause, the presiding judge of the municipal courts shall have the authority to remit all or any part of the fines and costs

of the court associated with any ~~the~~ judgment. The action of the presiding judge, on a proper form, shall be transmitted to the chief clerk of the municipal courts to be entered upon the municipal courts docket by the chief clerk and to the controller who shall authorize a refund of so much of the fine and costs as the presiding judge, in his sole discretion, in each particular case, shall so designate.

* * *

Sec. 16-55. Rules of practice and procedure.

The presiding judge may recommend to the city council the adoption of ordinances establishing rules and regulations concerning the practice and procedure in the municipal courts. The rules and regulations and amendments thereto, if any, shall not constitute a part of this Code. Copies thereof shall be maintained for public inspection and copying in the city secretary's office and the ~~office of the chief clerk of the municipal courts~~. With the consent of the presiding judge, the chief clerk of the municipal courts may cause copies thereof to be published and make the same available at a cost that is equivalent to the cost of publication, provided that no fee shall be imposed for the first copy supplied to any indigent defendant who makes an affidavit that he is unable to pay the cost thereof.

* * *

ARTICLE IV. ADJUDICATION OF PARKING CITATIONS

Sec. 16-61. Jurisdiction.

The municipal courts ~~judicial department~~ shall have original jurisdiction over cases involving violations of city ordinances enumerated in articles II, IV and VI and division 1 of article III of chapter 26 of this Code and of offenses involving the parking or stopping of a vehicle that arise under the Fire Code of the city.

Sec. 16-62. Procedures.

The ~~director of the municipal courts judicial department~~ presiding judge shall establish and implement appropriate procedures to effect the policy of this article.

Sec. 16-63. Adjudication hearing officers.

(a) The municipal courts ~~judicial department~~ shall employ one or more adjudication hearing officers who shall be appointed by the mayor. Staff required for the support of the adjudication hearing officer's functions shall be provided by the clerk of the municipal courts.

(b) Adjudication hearing officers shall have the authority to administer oaths and to issue orders compelling the attendance of witnesses and production of documents.

(c) An order compelling the attendance of witnesses or production of documents may be enforced by the municipal courts ~~judicial~~department.

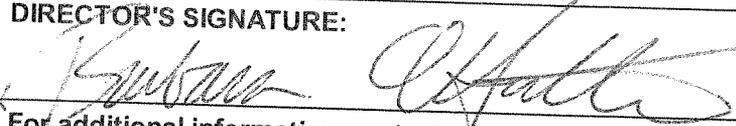
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Sec. 16-67. Appeal.

(a) A person who is found liable after an administrative adjudication hearing may appeal that finding of liability to the municipal courts by filing a notice of appeal with the ~~chief~~ clerk of the municipal courts. The notice of appeal must be filed not later than ten days after the date on which the adjudication hearing officer entered the finding of liability and shall be accompanied by the payment of a nonrefundable appellate filing fee of \$10.00 for the first citation and \$5.00 for each additional citation that is appealed. Unless the person, on or before the date of filing of the notice of appeal, posts a bond in the amount of the civil penalty and any late fees, an appeal does not stay the enforcement of the civil penalty. An appeal shall be decided by the municipal court under the substantial evidence rule and on the basis of the evidence adduced at the hearing before the adjudication hearing officer. The ~~clerk~~ clerk ~~chief clerk's office~~ shall provide or cause to be provided a copy of the record to the municipal court. If the municipal court finds the record to be materially incomplete, the court may upon its own motion or upon the motion of the defendant or the prosecuting attorney refer the case back to the adjudication hearing officer for further proceedings; however, no evidence may be adduced at the appeal hearing.

(b) The municipal court shall not reverse the adjudication hearing officer's decision unless it is determined to be:

- (1) In violation of the law;
- (2) Not reasonably supported by substantial evidence, based upon a review of the reliable and probative evidence in the record as a whole; or
- (3) Arbitrary and capricious or characterized by an abuse of discretion.

SUBJECT: An ordinance amending the current rules of practice and procedure for the Municipal Courts of the City of Houston outlined in Ordinance No. 86-1447		Category #	Page 1 of <u>1</u>	Agenda Item # <div style="text-align: center; font-size: 2em;">9</div>		
FROM: (Department or other point of origin): Municipal Courts		Origination Date <div style="text-align: center;">9-17-10</div>		Agenda Date 09/22/2010		
DIRECTOR'S SIGNATURE: 		Council Districts affected: All				
For additional information contact: Judge Barbara E. Hartle Director and Presiding Judge Municipal Courts Judicial Department 713.247.5464		Date and identification of prior authorizing Council Action: Ord. No. 86-1447 (August 26, 1986)				
RECOMMENDATION: (Summary) Approval of an Ordinance amending Ordinance No. 86-1447, which was originally approved by Houston City Council on August 26, 1986. This Ordinance provides that the governing body of a municipality may adopt rules and regulations not inconsistent with any law of this State concerning the practice and procedure in the municipal court of the municipality as the governing body may consider proper as allowed by Article 45.203(b) of the Texas Code of Criminal Procedure. This revision will update various practices and procedures as set forth by the Presiding Judge and as prescribed in the City of Houston Code of Ordinances, Chapter 16, Article III, Section 16-55.						
Amount of Funding:		N/A		F & A Budget: N/A		
SOURCE OF FUNDING:						
[] Other (Specify) [N/A] [] General Fund [] Grant Fund [] Enterprise Fund						
SPECIFIC EXPLANATION: The Local Rules governing the City of Houston Municipal Courts have not been revised since 1986. Since that time, many of these rules have become outdated due to changes in State laws, local rules and procedure, and advancements in court technology at the local level. The Presiding Judge of the Municipal Courts, in collaboration with the Legal Department, has reviewed and revised a number of the rules of practice and procedure and recommends the adoption and approval of such changes by the City Council. The revisions proposed herein will address various areas of Court procedures, specifically:						
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <ol style="list-style-type: none"> 1. Arraignment Settings; 2. Courtroom Decorum; 3. Continuance of Cases; 4. Trial Settings; 5. Trial Dockets; 6. Juveniles; 7. Motions for New Trial; 8. Appellate Bonds; 9. Procedures for the Posting of Bonds; </td> <td style="width: 50%; vertical-align: top;"> <ol style="list-style-type: none"> 10. Bond Amounts; 11. Bond Forfeitures; 12. Review of Court Documents; 13. Certified Copies; 14. Administrative Hearings; 15. Attorney Vacations; 16. Transfer of Cases; 17. Associate Judges </td> </tr> </table>					<ol style="list-style-type: none"> 1. Arraignment Settings; 2. Courtroom Decorum; 3. Continuance of Cases; 4. Trial Settings; 5. Trial Dockets; 6. Juveniles; 7. Motions for New Trial; 8. Appellate Bonds; 9. Procedures for the Posting of Bonds; 	<ol style="list-style-type: none"> 10. Bond Amounts; 11. Bond Forfeitures; 12. Review of Court Documents; 13. Certified Copies; 14. Administrative Hearings; 15. Attorney Vacations; 16. Transfer of Cases; 17. Associate Judges
<ol style="list-style-type: none"> 1. Arraignment Settings; 2. Courtroom Decorum; 3. Continuance of Cases; 4. Trial Settings; 5. Trial Dockets; 6. Juveniles; 7. Motions for New Trial; 8. Appellate Bonds; 9. Procedures for the Posting of Bonds; 	<ol style="list-style-type: none"> 10. Bond Amounts; 11. Bond Forfeitures; 12. Review of Court Documents; 13. Certified Copies; 14. Administrative Hearings; 15. Attorney Vacations; 16. Transfer of Cases; 17. Associate Judges 					
REQUIRED AUTHORIZATION:						
F&A Director:		Other Authorization:		Other Authorization:		

City of Houston, Texas, Ordinance No. 2010-_____

AN ORDINANCE AMENDING THE RULES OF PRACTICE AND PROCEDURE FOR THE MUNICIPAL COURTS OF THE CITY OF HOUSTON; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, Article 45.203(b) of the Texas Code of Criminal Procedure provides that the governing body of a municipality may adopt rules and regulations not inconsistent with any law of this State concerning the practice and procedure in the municipal court of the municipality as the governing body may consider proper; and

WHEREAS, the City Council last adopted rules of practice and procedure for the City's municipal courts in 1986 by the passage of Ordinance No. 86-1447 on August 26, 1986; and

WHEREAS, the City Council of the City of Houston is desirous of updating its rules and regulations concerning the practice and procedure for the Municipal Courts of the City of Houston; **NOW, THEREFORE**,

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

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

Section 2. The rules and regulations concerning the practice and procedure in the various municipal courts established by the City Council of the City of Houston, entitled "Rules of the Municipal Courts of the City of Houston, Texas." shall read as set forth in Exhibit A attached to this ordinance.

Section 3. The amendments to the rules and regulations of the Municipal Courts of the City shall be effective as of the _____ day of _____, 2010.¹

¹ Editor shall insert the date of passage and approval of this Ordinance.

Section 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

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

PASSED AND APPROVED this ____ day of _____, 2010.

Mayor of the City of Houston

Prepared by Legal Dept.

RDC:asw 09/17/2010

Requested by Hon. Barbara E. Hartle, Presiding Judge

L.D. File No. 0441000025001



Senior Assistant City Attorney

EXHIBIT A

**RULES OF THE MUNICIPAL COURTS
OF THE
CITY OF HOUSTON, TEXAS**

Pursuant to the authority of *Art. 45.203(b)* of the *Texas Code of Criminal Procedure* the following Rules of the Municipal Courts of the City of Houston, Texas are hereby adopted, effective [date of ordinance approving new rules], 2010.

DEFINITIONS

Court where capitalized, shall mean the trial judge handling the matter; otherwise, it shall mean the particular court to which a matter has been assigned.

RULE 1. ARRAIGNMENT

- 1.1 The court appearance date that appears on a citation is the arraignment setting.
- 1.2 An arraignment takes place for the purpose of fixing a defendant's identity and hearing his plea. *Code of Criminal Procedure Art. 26.02.*
- 1.3 At the arraignment, the defendant may enter a plea of not guilty, guilty or *nolo contendere* (no contest).
- 1.4 If the plea is guilty or *nolo contendere*, the defendant may offer proof as to the offense, and the punishment shall be assessed by the court. *Code of Criminal Procedure Art. 45.022.*
- 1.5 If the plea is not guilty, the case shall be set for trial by the court (upon written waiver) or trial by jury.
- 1.6 A plea of not guilty shall be entered by the court if the defendant refuses to plead. *Code of Criminal Procedure Art. 45.024.*
- 1.7 Arraignment for those persons detained in the City jail for criminal offenses within the jurisdiction of the City of Houston Municipal Courts shall be held at times prescribed by the Presiding Judge.

RULE 2. COURTROOM DECORUM

- 2.1 The Court shall maintain proper order and decorum and require all litigants, jurors, witnesses, lawyers, and others appearing before the court to conduct themselves in a manner respectful of the Court's authority and function.

RULE 3. CONTINUANCES

- 3.1 A continuance may not be requested by mail, electronic mail, facsimile or telephone.

- 3.2 A case may be continued on the written motion of the State or of the defendant or his attorney. A case may be reset at the discretion of the Court upon sufficient cause shown. *Code of Criminal Procedure Art. 29.03.*
- 3.3 In the event the defendant is unavailable to file his motion for continuance, a representative of the defendant may file a written motion signed and sworn to by the defendant, setting forth the reason for the continuance. *Code of Criminal Procedure Art. 29.08.*
- 3.4 A request for continuance of a trial setting may be granted by the Court only upon written motion made at least five (5) days prior to the trial date.
- 3.5 All motions for continuance based upon grounds arising for the first time within the five (5) day period prior to trial date shall be heard at such time as the Court may specify.
- 3.6 The first request for continuance on Department of Public Safety (DPS) administrative hearings may be made through the DPS office; the maximum continuance obtained in this manner shall be two (2) weeks. Any subsequent requests for a continuance or for a continuance greater than two (2) weeks, may be granted only by the Court.
- 3.7 Non Issue continuances may be granted to allow later presentation of documentation that the defendant met the requirements for an absolute defense or a mandatory dismissal. Non Issue continuances may also be granted to allow a defendant an opportunity to pay court costs for mandatory and discretionary driver safety course or to post a bond for a deferred disposition (probation).
- 3.8 Non Issue continuances may include a plea of *nolo contendere* or *guilty*. In the event the defendant fails to return on or before the scheduled continuance date or fails to return with the required documentation, a judgment in the amount of the window fine will be entered against the defendant.

RULE 4. TRIAL SETTINGS

- 4.1 A plea of not guilty may be made at the arraignment or by written request at a time prior to the arraignment.
- 4.2 If the defendant waives a trial by jury, the Court shall hear and determine the cause without a jury. *Code of Criminal Procedure Art. 45.025.*
- 4.3 If the defendant wishes to have a trial by jury, such request may be made at arraignment.
- 4.4 A hearing on a pre-trial motion may be continued upon written request of either party.
- 4.5 Notice of the Complaint is deemed waived upon the entry of a plea of guilty or *nolo contendere* by the defendant. *Code of Criminal Procedure Art. 45.018.*

RULE 5. TRIAL DOCKET

- 5.1 The State and the defendant shall announce "ready" or "not ready," and the Court shall then consider any properly filed pre-trial motions.
- 5.2 If the defendant, without good cause shown, fails to announce ready for trial at the time the case is called for trial, the Court will enter a plea of "not guilty" on the defendant's behalf and proceed with the trial.
- 5.3 If the State, without good cause shown, fails to announce ready for trial at the time a case is called for trial, the Court will dismiss the case.
- 5.4 If the defendant fails to appear in person at the time the case is called for trial a warrant may be issued for his arrest.

RULE 6. JUVENILES

- 6.1 A defendant who is younger than 17 years of age and is charged with an offense within the jurisdiction of the Municipal Courts, must be accompanied by a parent or legal guardian at all appearances. No action will be taken unless the defendant is accompanied by such parent or legal guardian, provided, however, the Court may hear the case upon finding that due diligence has been used to obtain the presence of the parent or legal guardian. *Code of Criminal Procedure Art. 45.0215.*

RULE 7. MOTION FOR NEW TRIAL

- 7.1 A motion for new trial must be made not later than the tenth (10th) day after the date on which judgment is rendered. *Government Code Sec. 30.00014.*

RULE 8. APPEAL BOND

- 8.1 An appeal bond is required to perfect an appeal in the Municipal Courts. Appeal bonds, other than cash appeal bonds, require approval from the Clerk of the Municipal Courts before they are presented to the Court for approval. All appeal bonds require the signature and address of the defendant. An appeal bond must be approved by the Court and must be filed not later than the 10th day after the date the judgment was entered. *Code of Criminal Procedure Art. 45.042, 45.0425.*

RULE 9. BAIL BONDS

- 9.1 A bail bond for a defendant, whether or not in the custody of the Houston Police Department, will be made in the Clerk of the Municipal Courts Bond Administration Office or public services counters.

9.2 In all cases where the defendant is in the custody of any other law enforcement agency and there is a "hold order" placed upon said defendant by the City for delinquent charges, the defendant may secure his release by:

9.2.1 Posting a cash bond in the Clerk of the Municipal Courts Bond Administration Office or public services counters after the defendant is transferred to the City of Houston jail; or

9.2.2 Posting a surety bond by having the defendant sign a properly executed surety bond and returning it to the Clerk of the Municipal Courts Bond Administration Office or public services counters; or

9.2.3 Posting a recognizance bond, which will be granted only by a magistrate assigned to hear the jail arraignment docket.

9.3 All bonds must be signed by the defendant.

RULE 10. AMOUNT OF BOND

10.1 The Presiding Judge shall provide a bond schedule that shall be followed in all courts, unless or until modified by the Presiding Judge.

RULE 11. FORFEITURE OF BAIL BOND

11.1 If a defendant is bound by bail and fails to appear in person in court as scheduled, the Court will (1) issue a bond forfeiture order, (2) enter a judgment *nisi* and (3) issue a warrant for the defendant's arrest and may order an increase of future bail in the case.

11.2. If the defendant fails to appear in court as scheduled and has posted a cash bond, entered a written and signed plea of *nolo contendere* and waiver of jury trial, the Court will enter a judgment. *Code of Criminal Procedure Art. 45.044(a)*.

RULE 12. REVIEW OF COURT DOCUMENTS

12.1 Court documents shall be made available for review by the Clerk of the Municipal Courts under reasonable conditions and safeguards, and as required by law.

RULE 13. CERTIFIED COPIES

13.1 Certified copies of court documents may be obtained from the Clerk of the Municipal Courts Bond Administration Office at the fees set forth in the City Code of ordinances. A defendant is entitled to only one (1) free uncertified copy of the complaint of a pending case.

RULE 14. ADMINISTRATIVE HEARINGS

- 14.1** Hearings involving driver's license suspensions or revocations are administrative, not criminal proceedings.
- 14.2** Continuances for driver's license suspension hearings are governed by Rule 3.6.
- 14.3** Hearings involving parking citations are administrative, not criminal proceedings.
- 14.4** Parking hearings are held each day of the week at times prescribed by the Presiding Judge.
- 14.5** Appeals from parking hearings shall be heard by the Administrative Judge at times prescribed by the Presiding Judge.
- 14.6** Hearings involving red light camera violations are administrative, not criminal proceedings.
- 14.7** Red light camera hearings are held each day of the week (or by mail) at times prescribed by the Presiding Judge.
- 14.8** Appeals from red light camera hearings shall be heard by the Administrative Judge times prescribed by the Presiding Judge.
- 14.9** Appeals from a determination that a dog is dangerous shall be heard by the Administrative Judge at times prescribed by the Presiding Judge.
- 14.10** Appeals from an Order that a dog found to be dangerous be euthanized shall be heard by the Administrative Judge at a time prescribed by the Presiding Judge.

RULE 15. ATTORNEY VACATIONS

- 15.1** Attorney vacation requests shall be governed by the procedures set forth in Rule 3.

RULE 16. TRANSFER OF CASE

- 16.1** The Presiding Judge may temporarily assign Judges to exchange benches and to sit and act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts.
- 16.2** A Court may transfer any case to another court, provided that the court to which the case is to be transferred accepts the case. No specified order of transfer need be entered of record.

- 16.3** Courts shall not make any disposition or take any action on a case not set on the docket for which that Court is responsible, unless such action is documented by the Court in the docket history of the case.

RULE 17. ASSOCIATE JUDGES

- 17.1** Associate Judges shall have the same powers as other municipal court judges, including the duties of magistrate and shall serve in such courts and at such times as prescribed by the Presiding Judge.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #

SUBJECT: Ordinance approving and authorizing contract between the City and Houston Arts Alliance, The Houston Museum District Association, Miller Theatre Advisory Board, Inc. and Theater District Improvement, Inc. for the support, advancement and promotion of the arts.

Category #

Page 1 of 1

Agenda Item#

10

FROM: (Department or other point of origin):

Michelle Mitchell
Director of Finance

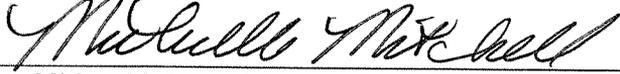
Origination Date

September 17, 2010

Agenda Date

SEP 22 2010

DIRECTOR'S SIGNATURE:



Council Districts affected:

All

For additional information contact:

Jack Alexander, Deputy Director **Phone:** (713) 837-9880
Minnette Boesel, Special Assistant to the Mayor **Phone:** 832-393-1097

Date and identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Adopt Ordinance approving and authorizing contract between the City and Houston Arts Alliance, The Houston Museum District Association, Miller Theatre Advisory Board, Inc. and Theater District Improvement, Inc. for the support, advancement and promotion of the arts.

Amount of Funding: 19.3% of FY2011 Hotel Occupancy Tax Revenue: \$10,325,500 (estimated)

Finance Department Budget:

SPECIFIC EXPLANATION:

The Texas Tax Code allows municipalities to spend up to a maximum of 19.3% of Hotel Occupancy Tax (HOT) revenues for the support of the arts to promote tourism and advance the convention and hotel industry. The proposed contract will provide ongoing support for Houston's major arts institutions as well as qualified small and mid-sized groups that express Houston's rich cultural diversity.

The proposed contract will be administered by the Finance Department. Each organization will receive direct quarterly payments in the percentage breakdown shown below.

Houston Arts Alliance (39.5%)

HAA will continue to administer a competitive grants program, based on a 'best practices' peer review process, to provide general operating support for a range of non-profit arts and cultural organizations, individual artists, special art projects, and touring and neighborhood grants that are jointly supported by Harris County and the Texas Commission on the Arts. HAA will also administer a variety of outreach and support services including the Business Volunteer for the Arts program, Free Night of Theatre, Arts Database Management Program, Arts Incubator Program, space125gallery and Artshound.com. *HAA's management of the City's civic art program is provided through separate contracts that will be brought to Council for approval in the future.*

The Houston Museum District Association (18%)

Marketing and tourism support for 11 museums within a 1.5 mile radius that provide rich experiences in art, history, culture, nature and science. Members include Children's Museum of Houston, Houston Museum of Natural Science, The Jung Center, The Menil Collection, Rice University Art Gallery, Contemporary Arts Museum Houston, Holocaust Museum Houston, Houston Zoo, The Health Museum, Lawndale Art Center, and Museum of Fine Arts, Houston.

REQUIRED AUTHORIZATION

Finance Director:

Other Authorization:

Other Authorization:

Date:

Subject: Ordinance approving and authorizing contract between the City and Houston Arts Alliance, The Houston Museum District Association, Miller Theatre Advisory Board, Inc. and Theater District Improvement, Inc. for the support, advancement and promotion of the arts.

**Originator's
Initials**

Page 2 of 2

SPECIFIC EXPLANATION (CONT'D)

Miller Outdoor Theatre Advisory Board, Inc. (16%)

Support for the only proscenium theatre in the United States that offers, totally free of charge to the public, an annual season of artistically excellent and culturally diverse performances. In 2009, 431,000 Houstonians and visitors attended 132 performances, a 43.1% increase in attendance over 2008. The Miller Theatre Advisory Board is an all-volunteer body appointed by the Mayor and confirmed by City Council.

Theater District Improvement, Inc. (24%)

Tourism marketing for the Houston Symphony, Houston Grand Opera, Houston Ballet, Alley Theatre, Theatre Under The Stars, Society for the Performing Arts and Da Camera of Houston.

City's Initiative Grant Program (2.5%)

Administered by HAA, the program provides small grants, usually ranging from \$2,000 to \$15,000, to emerging arts organizations or to take advantage of special opportunities.

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: An ordinance authorizing the first amendment to extend the contract with Avia Partners, Inc. for elderly services	Category #	Page 1 of 1	Agenda Item # 11
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FROM (Department or other point of origin): Department of Health and Human Services	Origination Date 8/11/10	Agenda Date SEP 22 2010
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DIRECTOR'S SIGNATURE: 	Council District affected: All
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For additional information contact: Kathy Barton Telephone: 832-393-5045; Cell: 713-826-5801	Date and identification of prior authorizing Council action: 05-09-07; 07-0558
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RECOMMENDATION: An ordinance authorizing the first amendment to extend the contract with Avia Partners, Inc. for elderly services

Amount of Funding: No additional funding <i>(Previous: Federal State Local - Pass Through Fund (5030))</i>	Finance Department:
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SOURCE OF FUNDING: [] General Fund [X] Grant Fund [] Enterprise Fund []
Other (Specify):

The Houston Department of Health and Human Services (HDHHS) requests City Council to approve an ordinance authorizing the first amendment to extend the contract with Avia Partners, Inc. for elderly services until September 30, 2012. This supportive service provider was selected through a request for proposal process in 2006 to provide prescription assistance services to seniors (60+) who reside in the City of Houston and Harris County. The respective contract was approved May 9, 2007 under Ordinance No. 07-0588, and was effective on the date of countersignature and extended through September 30, 2010.

The City of Houston, as designated by the Texas Department of Aging and Disability Services, has full authority and responsibility for funds and services authorized under the Title III of the Older Americans Action of 1965, as amended. These funds are disbursed by the U.S. Department of Health and Human Services through the Texas Department of Aging and Disability Services and administered by the Department's Harris County Area Agency on Aging.

cc: Finance Department
Legal Department
Agenda Director

REQUIRED AUTHORIZATION		
Finance Department	Other Authorization:	Other Authorization: NDT

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: An ordinance increasing the maximum contract amounts for and authorizing the first amendment to contracts with the Harris County Hospital District, Memorial Hermann Hospital System, Legacy Community Health Services, Inc. for HIV/STD services	Category # 9	Page 1 of 1	Agenda Item # <i>12</i>
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FROM (Department or other point of origin): Stephen L. Williams, M.Ed., M.P.A. Director-Houston Department of Health and Human Services	Origination Date 9/14/10	Agenda Date SEP 22 2010
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DIRECTOR'S SIGNATURE: <i>Colina Yaza Ridgeway</i> SLW	Council District affected: ALL
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For additional information contact: Kathy Barton Telephone: 832-393-5045 ; 713-826-5801	Date and identification of prior authorizing Council action: 2008-0602; 6-25-2008;
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RECOMMENDATION: (Summary)
Approval of an ordinance amending ordinance increasing the maximum contract amount for and authorizing the first amendment to contracts with the Harris County Hospital District, Memorial Hermann Hospital System, Legacy Community Health Services, Inc. for HIV/STD services

Amount of Funding: New Maximum Contract Amount: \$5,237,000.00 Current Maximum Contract Amount: \$2,166,938.00 Additional Funding Amount: \$1,911,310.00 - Federal (5000)	F&A Budget:
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SOURCE OF FUNDING: [] General Fund [X] Grant Fund [] Enterprise Fund [] Other (Specify)

SPECIFIC EXPLANATION:
The Houston Department of Health and Human Services (HDHHS) requests City Council approval of an ordinance increasing the maximum contract amount for and authorizing the first amendment to contracts with the Harris County Hospital District, Memorial Hermann Hospital System, Legacy Community Health Services, Inc. for HIV/STD services. The initial terms of the agreements were from the date of countersignature through September 29, 2008, with two (2) successive one-year renewal terms. The amendment changes the renewal provision for the agreements with Harris County Hospital District, Memorial Hermann Hospital System, and Legacy Community Health Services, Inc. to reflect four (4) one year renewals.

In November 2007, City Council approved an ordinance authorizing acceptance of a grant from the United States Department of Health and Human Services Centers for Disease Control and Prevention (CDC) for expanded and integrated HIV ^{testing} HDHHS contracted with the above-referenced entities in 2008. The CDC is extending additional funding and HDHHS would like to continue the services under the program with the current providers.

The CDC has estimated that there are approximately 1 million people infected with HIV in the United States. About 21% of them are unaware of their HIV status. This program provides the resources for HDHHS to use the Access, Consent, Test, Support (ACTS) protocol to guide implementation of routine, opt-out HIV screening in high volume medical facilities. HDHHS ensures follow-up with newly positive individuals.

cc: Finance & Administration
Legal Department
Agenda Director

REQUIRED AUTHORIZATION		
F&A Director	Other Authorization:	Other Authorization: <i>(2) NDT</i>

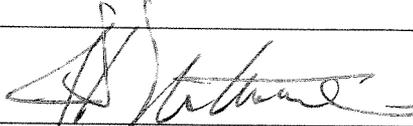
Date 9/14/10	Subject: An ordinance increasing the maximum contract amounts for and authorizing the first amendment to contracts with the Harris County Hospital District, Memorial Hermann Hospital System, Legacy Community Health Services, Inc. for HIV/STD services	Originator's Initials	Page 2 of 2
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The contractors are as follows:

Contractor	Funded Intervention	Current Contract Amount	New Maximum Contract Amount
Harris County Hospital District	Routine HIV Testing	\$918,600.00	\$2,651,000.00
Memorial Hermann Hospital System	Routine HIV Testing	\$546,570.00	\$1,286,000.00
Legacy Community Health Services, Inc.	Routine HIV Testing	\$701,768.00	\$1,300,000.00
Total		\$2,166,938.00	\$5,237,000.00

To: Mayor Via City Secretary

REQUEST FOR COUNCIL ACTION

Subject: An Ordinance authorizing the execution of a contract between the City of Houston and AIDS Foundation Houston, Inc. for the administration of a HOPWA Grant.		Category	Page 1 of 2	Agenda Item # <i>13</i>
From (Department or other point of origin): James D. Noteware, Director Housing and Community Development Department		Origination Date 9/8/10	Agenda Date SEP 28 2010	
Director's Signature: 		Council District affected: District H		
For additional information contact: Melody Barr Phone: 713.868.8329 <i>Melody</i>		Date and Identification of prior authorizing Council action: NA		
Recommendation: (Summary) Approval of an ordinance authorizing the execution of a contract between the City of Houston and AIDS Foundation Houston, Inc. providing up to \$406,485.00 for a one (1) year contract for the operation of community residences, along with providing supportive services under the Housing Opportunities for Persons with AIDS ("HOPWA") Act.				
Amount of Funding	\$406,485.00	Finance Budget:		
Source of Funding	<input type="checkbox"/> General Fund		<input checked="" type="checkbox"/> Grant Fund	
			<input type="checkbox"/> Enterprise Fund	
<input type="checkbox"/> Other (Specify) Grant Fund (5000)				
Specific Explanation: The Housing and Community Development Department ("HCDD") recommends approval of a contract between the City of Houston and AIDS Foundation Houston, Inc. ("AFH") for the administration of a Housing Opportunities for Persons with AIDS ("HOPWA") – funded community residence, along with supportive services. AFH is a Texas 501(c)(3) non-profit corporation. The organization has been in operation for twenty-three years, serving the HIV/AIDS community. AFH and Volunteers of America entered into an affiliation agreement on February 10, 2010 for one year; through January 31, 2011 to operate community residences known as Chupik House and Burrell Street Apartments. Chupik House will provide supportive services and housing for ten (10) HIV positive males. Burrell Street Apartments provide affordable housing and supportive services for fifty-five (55) HIV positive single women. This funding will allow AFH to provide housing, housing assistance payments, and supportive services. AFH will provide housing assistance through their community residence to seventy (70) individuals, along with providing supportive services. AFH is requesting \$406,485.00 for one (1) year, to provide housing, financial assistance and homeless prevention to a minimum of one hundred and thirty-five (135) unduplicated, low-income HIV/AIDS individuals and their family members.				
Total Funds and Sources:		\$406,485.00		
Number of Persons to be Served:		135		
Category of Persons:		HIV/AIDS/Low-income		
Required Authorization				
Finance Director	Other Authorization		Other Authorization	
				<i>NO</i>

Date
9/8/09

Subject: An Ordinance authorizing the execution of a contract between the City of Houston and AIDS Foundation Houston, Inc. for the administration of a HOPWA Grant.

**Originator's
Signature**

Page 2 of 2



The Contract will provide funding for:

Category	Total Contract Amount	Percent
Administrative	\$21,593.00	5.31%
Supportive Services	\$216,683.00	53.3%
Operating	\$168,209.00	41.4%
Total	\$406,485.00	100.00%

The RCA is recommended for Council Action. Therefore, the HCDD is requesting approval of a contract up to \$406,485.00. This request for funding was reviewed by the Housing Committee on May 20, 2010.

JN:BB:MB:mr

cc: City Secretary
Mayor's Office
Legal Department
Finance Department

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Professional Environmental Consulting Services Contract with CH2M Hill, Inc. for Multi-Disciplinary Environmental Consulting Services for the Houston Airport System; Project No. 625D (WBS # A-000423-0006-3-01)		Category #	Page 1 of 2	Agenda Item # 14
FROM (Department or other point of origin): Houston Airport System		Origination Date August 5, 2010	Agenda Date SEP 22 2010	
DIRECTOR'S SIGNATURE: <i>M. Kae</i> <i>Eric R. Potts</i>		Council District affected: B, E, I		
For additional information contact: Eric R. Potts <i>ERP</i> Phone: 281-233-1999 Carlos Ortiz <i>CO</i> 281-233-1842		Date and identification of prior authorizing Council action: N/A		
AMOUNT & SOURCE OF FUNDING: CIP No. A-0423.10 \$1,600,000.00 Arpt Improvemt Fd (8011) <i>OS</i> <i>INS</i>		Prior appropriations: N/A		
RECOMMENDATION: (Summary) Enact an Ordinance to approve a contract for Professional Environmental Consulting Services with CH2M Hill, Inc. and appropriate the necessary funds to finance the cost these services.				
SPECIFIC EXPLANATION: A Request for Qualifications (RFQ) was advertised in accordance with the requirements of the state bid laws. In response to the RFQ, nine firms (Booz Allen Hamilton, Inc., Brown & Caldwell, Camp Dresser & McKee, Inc., CH2M Hill, Inc., Corrigan Consulting, Inc., EA Engineering, Science, and Technology, Inc., Jacobs Engineering Group, Inc., Stantec Consulting Services, Inc., and Tolunay-Wong Engineers, Inc.) submitted Statements of Qualifications (SOQs) to provide multi-disciplinary environmental consulting services for the Houston Airport System (HAS). A selection committee reviewed the SOQs and interviewed four firms with the highest point totals. The committee recommended that a contract be awarded to CH2M Hill, Inc. A professional multi-disciplinary environmental consulting services contract (three years with two one-year options) has been prepared with CH2M Hill, Inc. to provide the following services on an as needed basis: <ul style="list-style-type: none">Air quality assessment and permittingWater quality assessment and permittingSite assessment and remediationNational Environmental Policy Act (NEPA) and general conformity review of capital development projectsRegulatory negotiationsEnvironmental management information systemsEnergy efficiencySustainability master planOther miscellaneous environmental services The appropriation of \$1,600,000.00 set forth herein is for FY11. It is anticipated that in subsequent fiscal years HAS will be requesting Council's approval for additional appropriations.				
REQUIRED AUTHORIZATION				
Finance Department:	Other Authorization:	Other Authorization:		

Date August 5, 2010	Subject: Professional Environmental Consulting Services Contract with CH2M Hill, Inc. for Multi-Disciplinary Environmental Consulting Services for the Houston Airport System; Project No. 625D (WBS # A-000423-0006-3-01)	Originator's Initials JHP	Page 2 of 2
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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 healthcare benefits for its employees in compliance with City policy.

DBE Participation: The Disadvantaged Business Enterprise participation goal for this contract is twenty-four percent (24%) and will be met by the following certified firms.

Firms	Type of Work
Berg Oliver Associates, Inc.	Environmental Engineering & Natural Resources
Hicks & Company	Environmental Management and State Environmental Regulatory Programs
HVJ Associates, Inc.	Geotechnical and Environmental Engineering
Jones Engineers, LP	Electrical Engineering and LEED Certification
Knudson Services, LP	National Environmental Policy Act (NEPA) Compliance Outreach Services
Separation Systems Consultants, Inc.	Multi-disciplinary Environmental Consulting and Field Remediation
Sheba Tech Aviation, LLC	Environmental Impact/Air Quality Studies
TLC Engineering, Inc.	Environmental Planning, Site Assessment, Soil and Groundwater Remediation
USA Shelco, Inc.	Engineering Services

The amount of work for each proposed sub-consultant will be determined as the project progresses and the services required by each sub-consultant are further defined.

FAA AIP Grant Programs and PFC: This project may be eligible for federal funding through the Federal Aviation Administration's (FAA) AIP program or through the Passenger Facility Charge (PFC) Program. Appropriate fund source adjustments will be made in the future if additional AIP or PFC funding becomes available.

REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance approving contract with West, a Thomson Reuters business, for on-line legal research services and library maintenance of print product subscriptions for the Legal Department	Category #	Page 1 of 1	Agenda Item 15
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FROM (Department or other point of origin): Legal Department	Origination Date September 16, 2010	Agenda Date SEP 22 2010
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DIRECTOR'S SIGNATURE: David M. Feldman, City Attorney 	Council District affected: All
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For additional information contact: Shirley Redwine, First ACA 832-393-6424	Date and identification of prior authorizing Council action:
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RECOMMENDATION: (Summary)
Adopt Ordinance approving a three year contract with a maximum contract amount of \$680,825 for on-line legal research services and library maintenance of print product subscriptions for the Legal Department's law libraries and terminating the current contract.

Amount and Source of Funding:	Finance Budget:
\$ 155,206 - General Fund (1000) \$ 525,619 - Property and Casualty Fund (1004) \$ 680,825 - Maximum Contract Amount (3 years)	

SPECIFIC EXPLANATION:

The City currently has a contract with West for monthly fees for on-line legal research services (WESTLAW) and library maintenance (print publications). The current contract commenced February 1, 2010. The Legal Department has reassessed its research materials needs and has decided to lessen the number of print products and amount of on-line access it currently purchases. The Department believes research capability will not be compromised by this change. Therefore the Department desires to terminate the current contract and enter into this new Agreement with West.

The fixed annual cost for the first contract year will be **\$200,856**. For the second contract year the total will be **\$206,886**. For the third year the total will be **\$213,083**. **By way of comparison the expenditures for WESTLAW and the law libraries totaled \$356,650.59 for FY 2009 and \$370,483 for FY 2010, resulting in an expected yearly savings of \$125,000 or more.** The maximum contract amount also includes a contingency in the amount of \$60,000 to cover optional (ancillary) contract charges. The rates for WESTLAW and library maintenance will increase 3% a year for the second and third years.

REQUIRED AUTHORIZATION

Other Authorization:	Other Authorization:	Other Authorization:

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #

SUBJECT: Ordinance Authorizing the City Council of the City of Houston, Texas to Terminate a Proclamation Declaring a Local State of Disaster for the City of Houston as a Result of Hurricane Ike.

Category #

Page 1 of 1

Agenda Item#

16

FROM: (Department or other point of origin):

Alfred J. Moran, Jr., Director
Administration & Regulatory Affairs Department

Origination Date

September 13, 2010

Agenda Date

SEP 22 2010

DIRECTOR'S SIGNATURE:

Council Districts affected:

ALL

For additional information contact:

Christopher Newport Phone: (713) 837-9533
Evelyn Njuguna Phone: (832) 393-6308

Date and identification of prior authorizing Council Action:

Ordinance No. 2008-822, Passed 9/17/2008

RECOMMENDATION: (Summary)

Approve an Ordinance to terminate the proclamation declaring a local state of disaster as a result of Hurricane Ike.

Amount of Funding: N/A

FIN Budget:

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

SPECIFIC EXPLANATION:

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve an ordinance to authorize the termination of the proclamation declaring a local state of disaster for the City of Houston as a result of Hurricane Ike.

On September 11, 2008, the Mayor issued a proclamation declaring a local state of disaster for the City of Houston as a result of Hurricane Ike. This proclamation was issued pursuant to Chapter 418 of the Texas Government Code (the "Texas Disaster Act"). On September 17, 2008, City Council passed an ordinance authorizing the Mayor to extend the proclamation beyond the seven day period after the proclamation was issued, also pursuant to provisions of the Texas Disaster Act.

The proclamation declaring a local state of disaster for the City of Houston continues until it is terminated by order of City Council. ARA recommends City Council approve the ordinance to terminate the proclamation as all such threat or danger associated with Hurricane Ike no longer exists.

The Mayor, as Emergency Management Director for the City of Houston, shall retain all powers given to her by the Texas Disaster Act, Executive Order RP32, and the City of Houston Emergency Management Plan necessary to deal with the presence or imminent occurrence of a disaster as it is defined in the Texas Disaster Act.

REQUIRED AUTHORIZATION

SUBJECT: Lease Agreement with Levan Properties, L.P. at 2020 McKinney Street, for the Parking Management Division of the Administration and Regulatory Affairs Department.	Page 1 of 1	Agenda Item 17
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FROM (Department or other point of origin): General Services Department	Origination Date 9/16/10	Agenda Date SEP 22 2010
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DIRECTOR'S SIGNATURE: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr. Interim Director 9/8/10	Council District affected: 1
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For additional information contact: Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023	Date and identification of prior authorizing Council action:
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RECOMMENDATION: Approve and authorize a Lease Agreement with Levan Properties, L.P. for lease space at 2020 McKinney Street, for the Parking Management Division of the Administration and Regulatory Affairs Department and **allocate** funds.

Amount and Source Of Funding: Parking Management Operating Fund (8700) \$119,815.50 (7 months) FY 2011	Finance Budget:
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SPECIFIC EXPLANATION: The General Services Department recommends approval of a Lease Agreement with Levan Properties, LP, for 11,411 square feet of lease space at 2020 McKinney Street, for the Parking Management Division of the Administration and Regulatory Affairs Department (ARA). Parking Management is currently housed on the first and second floors of the George R. Brown Convention Center (GRB). The relocation to lease space will free up additional space at the GRB that can be devoted to convention center business, provide more efficient office space, improved parking and better access. Parking Management will lease the entire facility.

The proposed Lease Agreement provides for a ten year base term with an option to renew the lease up to ten years at the current market rate. The rental rates are as follows:

Year	Monthly Payment	Total Annual Rental
Years 1-5	\$17,116.50 (\$1.50 psq per month)	\$ 205,398.00 (\$18.00 psq per annum)
Years 6-10	\$19,969.25 (\$1.75 psf per month)	\$ 239,631.00 (\$21.00 psq per annum)

The Landlord will build out the lease space to meet the requirements of ARA. ARA will pay the construction costs, estimated at \$615,305.00 (\$54.00 psf).

The new lease term will commence on the date the Certificate of Substantial Completion is signed by the City, acknowledging that the Landlord has completed the improvements.

ARA is responsible for all building operational costs and the pass through of taxes and insurance. The Landlord is responsible for maintenance of the basic structure.

FRC:JLN:RB
xc: Marty Stein, Jacquelyn L. Nisby, Anna Russell, and Greg Daminoff

REQUIRED AUTHORIZATION

CUIC ID# 25 RB 94

General Services Department: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr., Director Real Estate Division	Other Authorization:	Administration and Regulatory Affairs: <i>Alfred J. Moran, Jr.</i> Alfred J. Moran, Jr. Director
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REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8846

Subject: Ordinance appropriating \$15,150.12 from Fund 9002 (Fleet/Equipment Special Revenue Fund) for the purchase of a utility vehicle utilizing the State of Texas Cooperative Purchasing Agreement, TxMAS.

Category #
1 & 4

Page 1 of 1

Agenda Item

18

FROM (Department or other point of origin):

Rick Flanagan
Acting Fire Chief
Fire

Origination Date

September 07, 2010

Agenda Date

SEP 22 2010

DIRECTOR'S SIGNATURE



Council District(s) affected
E-Sullivan

For additional information contact:

Karen Dupont
Neil Depascal

Phone: (713) 859-4934
Phone: (713) 247-8721

Date and Identification of prior authorizing Council Action:

RECOMMENDATION (Summary)

It is recommended City Council adopt an Ordinance appropriating \$15,150.12 from Fund 9002 (Fleet/Equipment Special Revenue Fund) for the purchase of a utility vehicle.

Amount of Funding: \$15,150.12
Fund 9002 - Fleet/Equipment Special Revenue Fund

F & A Budget

SOURCE OF FUNDING: General Fund Grant Fund Enterprise Fund

Other (Specify) \$15,150.12

SPECIFIC EXPLANATION:

The Fire Chief requests City Council adopt an Ordinance appropriating \$15,150.12 from Fund 9002 (Fleet/Equipment Special Revenue Fund) for the purchase of a utility vehicle using the State of Texas cooperative purchasing agreement, TxMAS.

The utility vehicle (UTV) to be purchased is a 2011 Kawasaki Mule outfitted with an EMS stretcher. As HFD did not have budgeted funds for this purchase, TIRZ 10 (Lake Houston TIRZ) provided the funding which was deposited into the Fleet/Special Services Fund and is being appropriated for this purchase.

The UTV will be housed centrally in the Kingwood area at Fire Station 102 and will be deployed to calls for Emergency Medical Service on the greenbelt. The greenbelt system traverses more than 75 miles throughout the entire Kingwood area. Some areas of the greenbelt are far removed from an access point. Currently crews may travel significant distances on foot carrying equipment in and the patient and equipment back out. The UTV will be trailered to the access point closest to the report of the emergency and deployed. Crews can use the UTV to travel to the patient and provide care and bring the patient out by motorized conveyance. Once extricated a patient will be transported by ambulance to the most appropriate facility for treatment.

REQUIRED AUTHORIZATION

F&A Director:

Other Authorization:

Other Authorization:

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8638

Subject: Approve an Ordinance Awarding a Contract for Activated Carbon Replacement & Disposal Services for the Public Works & Engineering Department/S33-L23527

Category #
4

Page 1 of 2

Agenda Item

19

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Administration & Regulatory Affairs Department

Origination Date

September 02, 2010

Agenda Date

SEP 22 2010

DIRECTOR'S SIGNATURE

Calvin D. Wells

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 awarding a contract to SNR Technologies, LLC on its low bid meeting specifications in an amount not to exceed \$830,822.84 for activated carbon replacement and disposal services for the Public Works & Engineering Department.

Maximum Contract Amount: \$830,822.84

Finance Budget

\$830,822.84 - PWE-W&S System Operating Fund (8300)

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve an ordinance awarding a three-year contract, with two one-year options, to SNR Technologies, LLC on its low bid meeting specifications in an amount not to exceed \$830,822.84 for activated carbon replacement and disposal services for the Public Works & Engineering Department (PWE). The City Purchasing Agent or the Department Director 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. Forty-four prospective bidders downloaded the solicitation document from SPD's e-bidding website and three bids were received as outlined below:

<u>COMPANY</u>	<u>TOTAL AMOUNT</u>
1. Tribe Environmental Services, Inc.	\$ 134,000.00 (Does Not Meet Specifications)
2. SNR Technologies, LLC	\$ 830,822.84
3. Calgon Carbon Corporation	\$1,071,003.58

The scope of work requires the contractor to provide all personnel, management, supervision, labor, equipment and incidentals necessary to provide odor control services at the Sims Bayou South Wastewater Treatment Plant and the MacGregor Way Lift Stations. The contractor will be required to replace activated carbon with virgin (unimpregnated) carbon and activated carbon impregnated with potassium iodide. The contractor shall also be responsible for disposing of the spent carbon off-site in accordance with all applicable Federal, State and local laws. Additionally, the contractor is required to provide maintenance, quarterly and annual inspections of the air purification units.

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

NOT

Date: 9/2/2010	Subject: Approve an Ordinance Awarding a Contract for Activated Carbon Replacement & Disposal Services for the Public Works & Engineering Department/S33-L23527	Originator's Initials CJ	Page 2 of 2
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M/WBE Subcontracting:

This invitation to bid was issued as a goal-oriented contract with a 5% M/WBE participation level. **SNR Technologies, LLC** has designated the below-named company as its certified M/WBE subcontractor:

Subcontractor	Type of Work	Percent	Amount
Gamez Trucking	Activated Carbon Removal and Disposal	5.8%	\$48,187.72

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 has elected to pay into the Contractor Responsibility Fund in compliance with City policy.

Buyer: Conley Jackson

Estimated Spending Authority

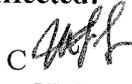
Department	FY11	Out Years	Total Amount
Public Works & Engineering	\$74,000.00	\$756,822.84	\$ 830,822.84

To: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Recommendation that an ordinance for the CHIMNEY ROCK AT WEST AIRPORT BOULEVARD INTERSECTION REDESIGN PROJECT be passed approving and authorizing the acquisition of parcels by dedication, purchase, or condemnation. WBS N-000622-0030-2-01	Page 1 of 1	Agenda Item # 20
	FROM: (Department or other point of origin): Department of Public Works and Engineering	

FROM: (Department or other point of origin): Department of Public Works and Engineering	Origination Date 9/16/10	Agenda Date SEP 22 2010
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DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E., Director	Council District affected: C  Key Map 571F
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For additional information contact: Nancy P. Collins Phone: (713) 837-0881  Senior Assistant Director – Real Estate Planning and Development Services Division	Date and identification of prior authorizing Council Action: Ordinance 2010-441, passed June 9, 2010
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RECOMMENDATION: (Summary)
An ordinance for the CHIMNEY ROCK AT WEST AIRPORT BOULEVARD INTERSECTION REDESIGN PROJECT be passed approving and authorizing the acquisition of parcels by dedication, purchase, or condemnation.

Amount and Source of Funding: No Additional Funding Required (covered under Blanket Appropriation *N.P. 8/24/2010* Ordinance 2010-441, N-00663A-00RE-2-01 Street and Bridge Consolidated Construction Fund 4506)

SPECIFIC EXPLANATION:

The Department of Public Works and Engineering is requesting that an ordinance for the CHIMNEY ROCK AT WEST AIRPORT BOULEVARD INTERSECTION REDESIGN PROJECT be passed approving and authorizing the acquisition of parcels by dedication, purchase or condemnation. The project consists of redesign and reconstruction of the intersection to reduce delays and potential accidents.

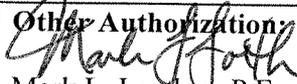
This action authorizes payment for the costs of land purchases/condemnations, appraisal fees, title policies/services, and recording fees in connection with negotiations to settle purchases; finds a public necessity for the project; and approves and authorizes the condemnation of the land and improvements thereon. If negotiations to acquire the property cannot be concluded as a purchase or for any reason for which acquisition by condemnation is warranted, this action authorizes the City Attorney to file or cause Eminent Domain proceedings to be filed and acquire rights-of-way and easements for said purposes and authorizes payment for the Award of Special Commissioners and court costs associated with condemnation proceedings. Payments for purchase considerations that exceed the spending authority threshold set by State law will be submitted to City Council as they are finalized. This will expedite the process of acquiring land in support of the CHIMNEY ROCK AT WEST AIRPORT BOULEVARD INTERSECTION REDESIGN PROJECT.

DWK:NPC:jk

cc: Marty Stein

CUIC #20JPK08

REQUIRED AUTHORIZATION

Finance Department:	Other Authorization:	Other Authorization:  Mark L. Loethen, P.E., CFM, PTOE Acting Deputy Director Planning and Development Services Division
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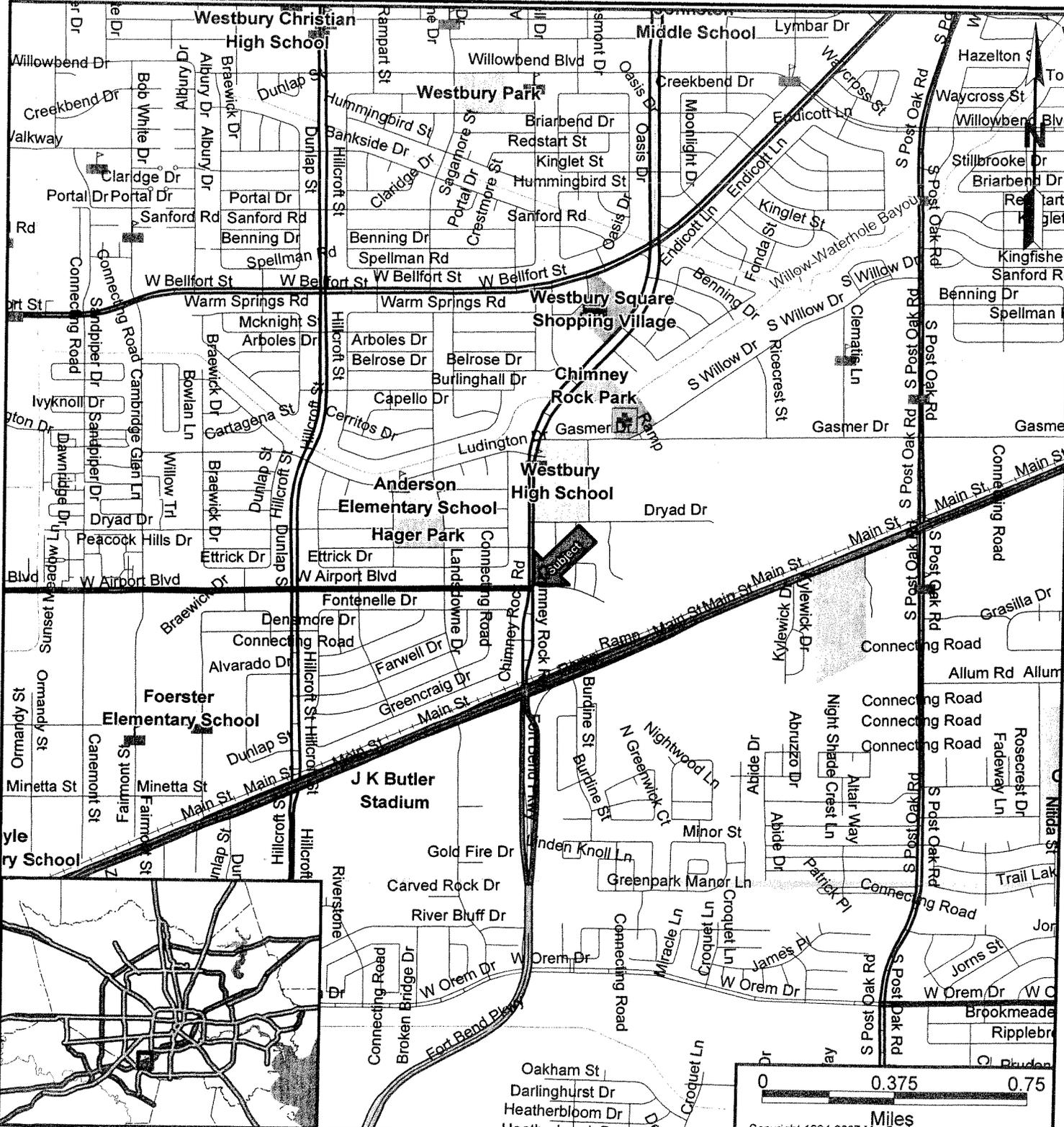
LOCATION MAP

Description: Chimney Rock at W. Airport Blvd. Intersection

WBS N-000662-0030-2-01; Council District C; Key Map 571F

Subject Address: 12200-12300 Chimney Rock Rd, Houston, TX 77035

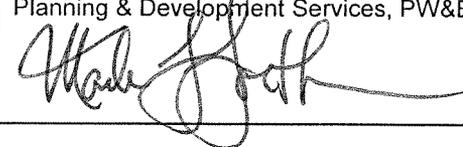
Prepared by: City of Houston, 611 Walker, Houston, TX 77002



CAUTION: The location of property arrows shown on this map are approximate only. Inaccuracies may exist on map such as missing, incorrectly drawn, or incorrectly addressed streets. Please report any such inaccuracy to MapPro, Inc. so that appropriate corrections can be made.

TO: Mayor via City Secretary

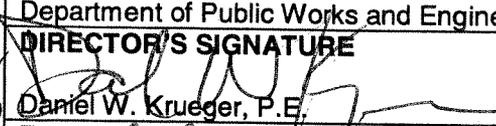
REQUEST FOR COUNCIL ACTION

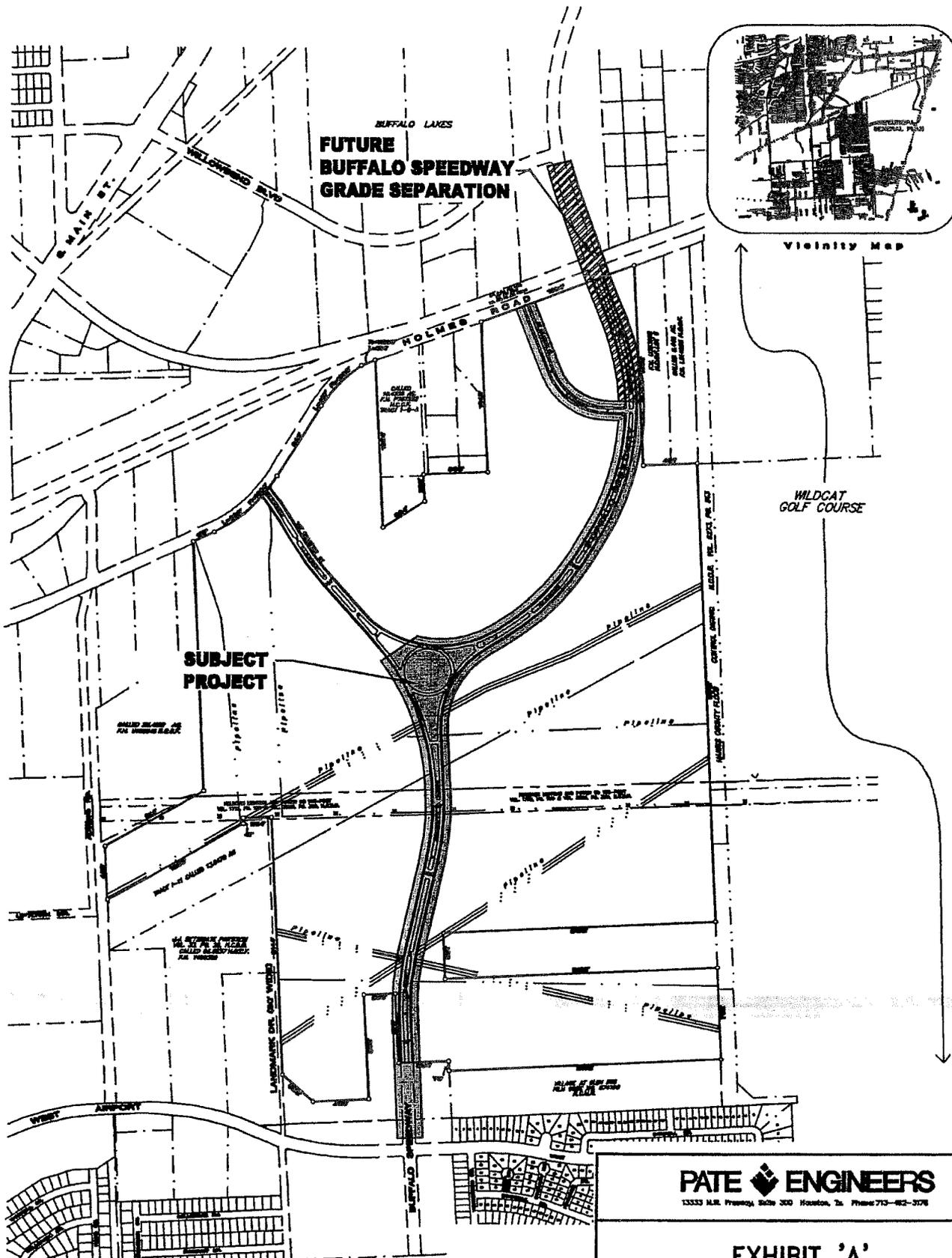
SUBJECT: Interlocal Agreement with Harris County to implement provisions of the Municipal Separate Storm Sewer System (MS4) permit (M-000220-0008-3)		Page 1 of 2	Agenda Item # 21
FROM (Department or other point of origin): Department of Public Works and Engineering		Origination Date 9/16/10	Agenda Date SEP 22 2010
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P. E. Director		Council District affected: ALL <i>CD#</i>	
For additional information contact: Carol E. Haddock, <i>CD#</i> P.E. Senior Assistant Director (839) 395- 2686 Richard J. Chapin, <i>RJC</i> Senior Project Manager (839) 395-2689		Date and identification of prior authorizing Council action: Ord. 91-909 6/19/91	
RECOMMENDATION: Adopt an ordinance approving an Interlocal Agreement with Harris County to implement provisions of the Municipal Separate Storm Sewer System (MS4) permit and appropriate funds.			
Amount and Source of Funding: \$200,000.00 - Drainage Improvement Commercial Paper Series F Fund (4030) <i>M.F. 9/9/10</i>			
SPECIFIC EXPLANATION: The Director of the Department of Public Works and Engineering recommends that City Council approve the Interlocal Agreement (ILA) with Harris County to implement the Texas Pollution Discharge Elimination System (TPDES) permit for the City's storm water system, and appropriate required funding.			
BACKGROUND: In 1987, Congress amended the Clean Water Act to require National Pollutant Discharge Elimination System (NPDES) permits for discharges from storm sewer systems serving populations over 100,000. In 1990, the Environmental Protection Agency issued regulations establishing the permitting process for these permits. In June 1991, City Council approved an Interlocal Agreement with Harris County, and Harris County Flood Control District (HCFCD) to form a Joint Task Force (JTF) that would work cooperatively, and provided funds to reimburse Harris County for work performed by their consultant (AECOM Technical Services). The joint NPDES Municipal Separate Storm Sewer System (MS4) permit became effective October 1, 1998, and on February 24, 2009, the Texas Commission on Environmental Quality renewed the JTF permit (renamed the Texas Pollution Discharge Elimination System - TPDES).			
REQUIRED AUTHORIZATION		CUIC ID# 20CAE74	
Other Authorization:	Other Authorization: Mark L. Loethen, P.E., Acting Deputy Director Planning & Development Services, PW&E 	Other Authorization:	

DESCRIPTION: The proposed Interlocal Agreement (ILA) between the City of Houston and Harris County is one that allows Harris County to act as the center hub between the other members of the JTF. This ILA will allow the JTF to implement the TPDES permit and to use Harris County's consultant to perform professional services including compiling annual reports and submitting the joint permit renewal application when the permit expires in 2014. Harris County used a request for qualifications procedure in accordance with the Professional Procurement Act, Subchapter A of Chapter 2254 of the Texas Government Code (the "Professional Services Procurement Act") to establish the engineering services contract that is included as part of the ILA. Under the agreement, Harris County will administer a contract with AECOM Technical Services, Inc. AECOM will also provide professional engineering services as needed by the members of the Joint Task Force for compliance with the Permit. The ILA provides that each member of the Joint Task Force may obtain and pay for services it requires in regard to implementation of the permit. Any engineering service performed shall be on the basis of Work Orders issued by the PWE Director, and all Work Orders issued by the Director shall be within the scope of services identified in this Interlocal Agreement. The requested appropriation is expected to cover the City's costs for a five year period.

The recommended funding level of \$200,000.00 over five years.

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

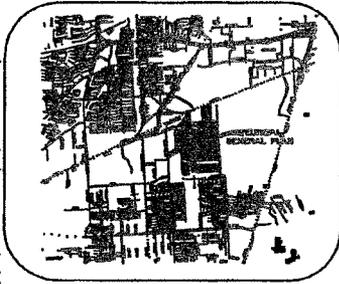
SUBJECT: A Cooperative Development Agreement between the City of Houston and Wildcat Interests, L.P. for Buffalo Speedway Design Modification		Page 1 of 1	Agenda Item # 22
FROM (Department or other point of origin): Department of Public Works and Engineering		Origination Date 9/16/10	Agenda Date SEP 22 2010
DIRECTOR'S SIGNATURE  Daniel W. Krueger, P.E.		Council District affected: D 	
For additional information contact: Mark L. Loethen, P.E., CFM, PTOE 713-837-0724		Date and identification of prior authorizing Council action:	
RECOMMENDATION: (Summary) Adopt an ordinance approving the Cooperative Development Agreement between the City of Houston and Wildcat Interests, L.P. for the Buffalo Speedway Design Modification			
Amount and Source of Funding: No Funds Required			
SPECIFIC EXPLANATION: Under this agreement, the City will share costs for design and construction of paving, drainage, wastewater and water lines as part of the Paving Extension of Buffalo Speedway from West Belfort Road to West Airport Boulevard (WBS No. N-000784-0001-3). Wastewater and water line construction costs will be split 70/30 similar to a 70% Residential Developer Participation Program contract. Wildcat Interests, L.P. will be responsible for additional costs for changes to paving, drainage, wastewater and water lines made at their request. Wildcat Interests, L.P. will also provide all easements/rights of way for the major thoroughfare including paving, drainage, wastewater and water lines, and the future grade separation. The City of Houston will construct the project upon payment of Wildcat L.P.'s share due no later than 15 days after presentation of invoice presented after receipt of bids. A true-up will be held upon completion.			
The City of Houston is responsible for the following:			
<ol style="list-style-type: none"> 100% of the original design and construction of the Buffalo Speedway Paving Extension with drainage, 70% of the cost of construction of the sanitary sewer and water lines, and 100% of the water line design 			
Wildcat Interests, L.P. is responsible for the following:			
<ol style="list-style-type: none"> 100% of the water line over-sizing costs (design and construction) from West Belfort Road to Holmes Road, 100% of design costs for the sanitary line on Buffalo Speedway from Holmes Road to West Airport Boulevard, 30% of other wastewater and water line construction costs, 100% of cost differences for paving and other, and 100% of the easements/rights of way for the paving extension, drainage, wastewater and water lines from Holmes Road to West Airport Boulevard, and a future grade separation over Holmes Road and the railroad tracks. 			
The total cost of the design and construction is estimated to be \$16,487,000.00. Of this, the City of Houston's share is estimated to be \$14,314,000.00 and Wildcat Interests, L.P. is estimated to be \$2,173,000.00. The value of the rights of way/easements provided by Wildcat Interests, L.P. is not included in these numbers.			
Request approval of the ordinance authorizing the Mayor to execute the agreement.			
cc: Marty Stein			
REQUIRED AUTHORIZATION		20UPA71	
Finance Department	Other Authorization:  Mark L. Loethen, P.E., CFM, PTOE Acting Deputy Director Planning and Development Services	Other Authorization:  Daniel R. Menendez, P.E. Deputy Director Engineering and Construction Services	



**FUTURE
BUFFALO SPEEDWAY
GRADE SEPARATION**

**SUBJECT
PROJECT**

**WILDCAT
GOLF COURSE**



Vicinity Map

PATE ENGINEERS
 15333 N.E. Freeway, Suite 300 Houston, TX Phone 713-812-3176

PATE ENGINEERS
 15333 N.E. Freeway, Suite 300 Houston, Tx Phone 713-812-3176

EXHIBIT 'A'

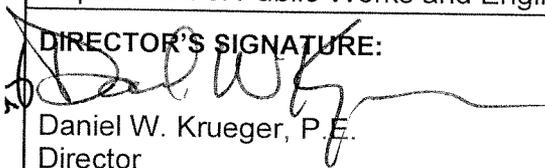
Scale: N.T.S.
 Date: 07/09/09

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: An Ordinance appropriating funds to cover advertising costs for CIP Projects. WBS Nos. M-000126-00AD-4, N-000668-00AD-4, R-000019-00AD-4, and S-000019-00AD-4	Page 1 of 1	Agenda Item # 23
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FROM: (Department or other point of origin): Department of Public Works and Engineering	Origination Date: 9-16-10	Agenda Date: SEP 22 2010
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DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E. Director	Council District affected: ALL JNB
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For additional information contact: <i>Ravi Kaleyatodi 8/17/10</i> Ravi Kaleyatodi, P.E., C.P.M. Phone: (832) 395-2326 Senior Assistant Director	Date and identification of prior authorizing Council action: Ord. No. 2004-0557 (06/02/04) Ord. No. 2007-0319 (03/21/07) Ord. No. 2008-1193 (12/17/08)
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RECOMMENDATION: (Summary)
Appropriate funds for advertising costs for projects in Capital Improvement Plan

Amount and Source of Funding: \$155,000.00

\$ 5,000.00 Drainage Improvement Commercial Paper Series F, Fund No. 4030
 \$ 5,000.00 Street & Bridge Consolidated Construction Fund No. 4506
 \$145,000.00 Water & Sewer System Consolidated Construction Fund No. 8500
\$155,000.00 Total Cost

M.F. 8/24/2010

SPECIFIC EXPLANATION

The Department of Public Works and Engineering is requesting that an ordinance be approved appropriating \$155,000.00 to cover advertising costs for construction projects that are included in the following Programs within the Capital Improvement Plan (CIP):

- Storm Drainage System Improvements
- Street & Traffic Control Facilities Improvements
- Wastewater System Improvements
- Water System Improvements

Construction projects are advertised in a local publication for two consecutive weeks under the Legal Notices section.

DWK:DRM:RK:JNB

- c: Marty Stein
 Daniel R. Menendez, P.E.
 Susan Bandy
 Craig Foster
 Velma Laws

REQUIRED AUTHORIZATION **CUIC# 20JNB03**

Finance Department:	Other Authorization:  Jun Chang, P.E., D.WRE Deputy Director, Public Utilities Division	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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TO: Mayor via City Secretary **REQUEST FOR COUNCIL ACTION**

SUBJECT: Contract Award for On-Call Clearing and Grubbing-Work Order Contract WBS No. N-000396-0017-4	Page 1 of 2	Agenda Item # 24
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FROM: (Department or other point of origin): Department of Public Works and Engineering	Origination Date: 9/16/10	Agenda Date: SEP 22 2010
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DIRECTOR'S SIGNATURE: Daniel W. Krueger, P.E.	Council District affected: All JK MR
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For additional information contact: Ravi Kaleyatodi 8/4/10 Ravi Kaleyatodi, P.E., CPM Phone: (832) 395-2326 Senior Assistant Director	Date and identification of prior authorizing Council action:
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RECOMMENDATION: (Summary)
Accept low bid, award construction Contract and appropriate funds

Amount and Source of Funding:
\$228,000.00 from the Street and Bridge Consolidated Construction Fund No. 4506
M.P. 8/4/2010

PROJECT NOTICE/JUSTIFICATION: This is an on-call clearing and grubbing project used primarily for clearing a project site for utility relocation prior to construction. The scope of the work will include mobilization, traffic control, demolition and removal and relocation of identified structures and items. The City will issue work orders over a one-year period.

DESCRIPTION/SCOPE: Work of the contract is for clearing and grubbing in various locations throughout the City of Houston. The scope of Work will be determined by work orders on as-needed basis.

The Contract duration for this project is 365 calendar days. The Contract was designed in house by Public Works and Engineering. Public Works and Engineering will issue work order(s) with specific scope of work and location(s) for Contractor's execution as appropriated.

LOCATION: The project is located throughout the City of Houston.

BIDS: Bids were received on May 13, 2010. The one (1) bid was based on the adjustment factor as follows:

<u>Bidder</u>	<u>Adjustment Factor</u>
1. Resicom, Inc.	1.25

REQUIRED AUTHORIZATION **CUIC ID #20MR73**

Finance Department	Other Authorization:	Other Authorization: Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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Date	Subject: Contract Award for On-Call Clearing and Grubbing- Work Order Contract WBS No. N-000396-0017-4	Originator's Initials	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 \$200,000.00 (Adjustment Factor 1.25) and that Addendum Number 1 be made a part of this Contract.

PROJECT COST: The total cost of this project is \$228,000.00 to be appropriated as follows:

- Bid Amount \$200,000.00
- Contingencies \$ 10,000.00
- CIP Cost Recovery \$ 18,000.00

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: MWBE participation for this project is not required.

All known rights-of-way, easements and/or right-of-entry required for the project have been acquired.

[Handwritten initials]
DWK:DRM:RK:JHK:MR

Z:\design\A-sw-dlv\WPDATA\MR\On-Call Contract\Post Bid\RCA.1.doc

ec: Marty Stein
Velma Laws
Susan Bandy
Craig Foster
Mike Pezeshki, P.E.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #

SUBJECT:
Ordinance granting a Commercial Solid Waste Operator Franchise

Category #

Page 1 of 1

Agenda Item#

3rd reading final **25 320 34**

FROM: (Department or other point of origin):

Alfred J. Moran, Director
Administration & Regulatory Affairs

Origination Date

8/25/10

Agenda Date

~~SEP 01 2010~~

DIRECTOR'S SIGNATURE:

[Handwritten Signature]

Council Districts affected:

ALL

~~SEP 15 2010~~

SEP 22 2010

For additional information contact:

Juan Olguin Phone: (713) 837- 9623
Nikki Cooper Phone: (713) 837- 9889

Date and identification of prior authorizing

Council Action: Ord. # 2002-526 – June 19, 2002;
Ord. # 2002-1166-December 18, 2002.

RECOMMENDATION: (Summary)

Approve an ordinance granting a Commercial Solid Waste Operator Franchise

Amount of Funding:
REVENUE

FIN Budget:

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:

1. BCS Resource. LLC

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.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary		RCA #	
SUBJECT: Ordinance granting a Commercial Solid Waste Operator Franchise		Category #	Page 1 of 1
<i>2nd reading</i>		<i>26</i>	<i>33-35</i>
FROM: (Department or other point of origin): Alfred J. Moran, Director Administration & Regulatory Affairs		Origination Date	Agenda Date
<i>final</i>		8/25/10	SEP 01 2010
DIRECTOR'S SIGNATURE: <i>[Signature]</i>		Council Districts affected:	SEP 15 2010 SEP 22 2010
		ALL	
For additional information contact: Juan Olguin Phone: (713) 837- 9623 Nikki Cooper Phone: (713) 837- 9889		Date and identification of prior authorizing Council Action: Ord. # 2002-526 – June 19, 2002; Ord. # 2002-1166-December 18, 2002.	

RECOMMENDATION: (Summary)
Approve an ordinance granting a Commercial Solid Waste Operator Franchise

Amount of Funding: REVENUE	FIN Budget:
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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:

- J.A. Gamez Trucking Services

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:

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary		RCA #	
SUBJECT: Ordinance granting a Commercial Solid Waste Operator Franchise		Category #	Page 1 of 1
		<i>2nd reading</i>	<i>27 34 36</i>
FROM: (Department or other point of origin): Alfred J. Moran, Director Administration & Regulatory Affairs		Origination Date	Agenda Date
		<i>final</i> 8-23-10	SEP 01 2010 SEP 15 2010 SEP 22 2010
DIRECTOR'S SIGNATURE: 		Council Districts affected: ALL	
For additional information contact: Juan Olguin JFo Phone: (713) 837- 9623 Nikki Cooper Phone: (713) 837- 9889		Date and identification of prior authorizing Council Action: Ord. # 2002-526 – June 19, 2002; Ord. # 2002-1166-December 18, 2002.	

RECOMMENDATION: (Summary)

Approve an ordinance granting a Commercial Solid Waste Operator Franchise

Amount of Funding: REVENUE	FIN Budget:
--------------------------------------	--------------------

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:

- Gallegos & Sons Trucking

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:

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #

SUBJECT:
Ordinance granting a Commercial Solid Waste Operator Franchise

Category #

Page 1 of 1

Agenda Item#

3rd reading 28 35 37

FROM: (Department or other point of origin):

Alfred J. Moran, Director
Administration & Regulatory Affairs

Origination Date

8/23/10

Agenda Date

~~SEP 01 2010~~

DIRECTOR'S SIGNATURE:

final
[Signature]

Council Districts affected:

ALL

~~SEP 15 2010~~

SEP 22 2010

For additional information contact:

Juan Olguin *JO* Phone: (713) 837- 9623
Nikki Cooper Phone: (713) 837- 9889

Date and identification of prior authorizing

Council Action: Ord. # 2002-526 – June 19, 2002;
Ord. # 2002-1166-December 18, 2002.

RECOMMENDATION: (Summary)

Approve an ordinance granting a Commercial Solid Waste Operator Franchise

Amount of Funding:
REVENUE

FIN Budget:

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:

1. IESI Corporation

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:



CITY OF HOUSTON
Legal Department

Interoffice
Correspondence

To: Anna Russell
City Secretary

From: David M. Feldman
City Attorney

29
SEP 22 2010

Date: September 14, 2010

Subject: Notice of Appeal on behalf of
Trinity Lutheran Church
appealing the decision of the
General Appeals Board of June
24, 2010 regarding Changeable
Message Sign located at 800
Houston Avenue, Houston,
Texas

This letter is in response to the August 19, 2010 correspondence of Mr. Richard Rothfelder, Attorney at Law, pertaining to the appeal of his client, Trinity Lutheran Church, from the decision of the General Appeals Board (GAB). City Council Rule 12, Section 2-2 of the City Code provides in pertinent part that:

“Every appeal that is authorized by federal law, state law, the City Charter, or city ordinance to be made to the city council from a decision by an officer, agency, board or commission shall be reviewed by the city council, without the taking of further evidence by city council, on the basis of the record of the decision from which the appeal is taken.”

* * *

“In the event that an appeal to the city council is filed by a party to a decision, the city council shall consider the appeal solely on the basis of:

- (1) The written record of the hearing conducted below; and
- (2) The written exceptions, if any, of each party to the proceeding to the facts and administrative rulings and decisions made by the officer, agency, board or commission.”

Anna Russell
September 14, 2010
Page 2

While the first page of Mr. Rothfelder's correspondence is the transmittal of the record and states his exceptions to the decision, the remainder consists of arguments in support of his client's case to City Council. The Rule does not provide for argument by the parties as part of the appeal process, and if Mr. Rothfelder is permitted to make such arguments he would enlarge the process beyond the Rule and place the City Attorney's office in the position of having to respond. However, in lieu of any further response in rebuttal of Mr. Rothfelder's arguments, the Legal Department would refer you to the City's prior correspondence dated March 3, 2010 (from Larry Schenk, City Legal Department) and March 19, 2010 (from Katherine Tipton, Sign Administrator), which are included in the record.



David M. Feldman
City Attorney

DMF:LWS
appeal correspondence #7.wpd

cc: Mayor and Members of City Council

Mr. Richard V. Rothfelder
1201 Louisiana, Suite 550
Houston, Texas 77002

Ms. Kathryn Tipton, Division Manager
Sign Administration, Department of Public Works and Engineering

Mr. Larry Schenk, Senior Assistant City Attorney
Ms. Denise Miller, Assistant City Attorney

RECEIVED
SEP 15 2010
CITY SECRETARY

APPEAL LETTER

ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

June 25, 2010

Ms. Anna Russell
City Secretary
City of Houston
P.O. Box 1562
Houston, TX 77251

Via Certified Mail, RRR, #7009 1680 0001 7224 0188

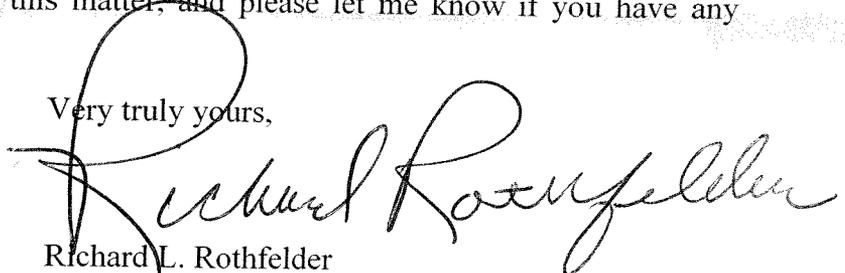
RE: Notice of Appeal of Trinity Lutheran Church of June 24, 2010 Decision of General Appeals Board regarding Changeable Message Sign located at 800 Houston Avenue; Our File No. 1440-1.

Dear Ms. Russell:

Pursuant to Section 4604(e)(1), on behalf of my client, Trinity Lutheran Church, I am hereby serving notice of appeal of the decision rendered by the General Appeals Board on June 24, 2010 upholding the Houston Sign Administration's ruling on the changeable message sign located at 800 Houston Avenue, Houston, Texas. Attached as Exhibit A is my March 11, 2010 letter to the General Appeals Board appealing the Sign Administration's original decision, which in turn is reflected in the March 3, 2010 letter of Senior Assistant City Attorney Larry W. Schenk, a copy of which is attached as Exhibit A-1. The transcript of the General Appeals Board hearing, as well as the administrative rulings of the General Appeals Board and Trinity Lutheran Church's exceptions thereto, will be provided within sixty days of the June 24, 2010 decision, pursuant to Section 4604(e)(2) of the Houston Sign Code.

Thank you for your attention to this matter, and please let me know if you have any question.

Very truly yours,



Richard L. Rothfelder

RECEIVED
JUN 28 2010
CITY SECRETARY

RLR:mr
Enclosures

ROTHFELDER & FALICK, L.L.P.
ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

March 11, 2010

General Appeals Board
City of Houston
3300 Main, 2nd Floor
Houston TX 77002
Attn: Gary Bridges, Building Official

Via Certified Mail, RRR, #7009 1680 0001 7224 8047

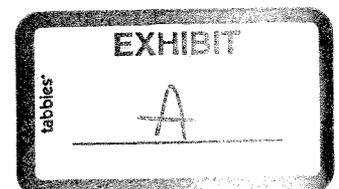
RE: Appeal to General Appeals Board by Trinity Lutheran Church of the decision by the Houston Sign Administration regarding a sign located at 800 Houston Avenue, Houston, Texas; Our File No. 1440-1.

Dear Mr. Bridges:

I. Introduction

The law firm of Rothfelder & Falick, L.L.P. represents Trinity Lutheran Church (the "Church"). Please consider this the Church's petition ("Appeal") to the General Appeals Board ("Board"), pursuant to Section 4604(e)(1) of the Houston Sign Code ("Code") and the rules and regulations of the Board. As such, we have enclosed ten (10) copies of the Church's application and this Appeal.

The Church is appealing the decision by the Houston Sign Administration ("HSA" or "City"), as communicated by the March 3, 2010 letter from Senior Assistant City Attorney Larry Schenk, requiring compliance "with all applicable sign regulations" by March 31, 2010. More specifically, the City has advised the Church that its LED (light emitting diode) illuminated changeable message sign ("Sign") located at 800 Houston Avenue, Houston, Texas, may not change its message more than once every five minutes. The grounds of the Church's appeal are stated below, along with such additional documents and arguments that may be presented at the hearing before the Board. By copy of this letter, we are providing Ms. Vrana, Ms. Tipton, Mr. Schenk, and Mr. Buck courtesy notice of the Church's appeal.



II. Background

Mr. Schenk's letter, which is attached as Exhibit 1, responds to the December 23, 2009 letter of Richard Rothfelder, the Church's attorney, which is attached as Exhibit 2.¹ In his letter, Mr. Schenk claims that the Sign is not exempt from the requirements of the Code, and that the provisions contained therein require that the message displayed on the Sign not be changed any more frequently than once every five minutes. The letter further states that the Sign must comply with "all applicable sign regulations" by March 31, 2010, or "the Sign will be prohibited, and the City will proceed to exercise the remedies available to it for enforcement against noncompliance with the Sign Code."

III. Argument and Authorities

For the following reasons, we must respectfully disagree with the City and request the Board overturn the City's decision. More specifically, the Church requests that the Board overturn the City's decision ordering the Sign change its displayed message no more than once every five minutes, as this provision of the Code is not applicable to the Church, as alleged by Mr. Schenk.

A. *The Sign is legally permitted as a grandfathered non-conforming use and structure.*

The Sign, photographs of which are attached as Exhibit 2-2, displays the Church's worship times and other non-commercial messages. It is legally permitted as a grandfathered non-conforming use and structure. Exhibit 2-3 is the permit ("Permit") and associated materials for the Sign, which indicates the Permit was issued in February 2007. At that time, there were no regulations regarding the frequency of the message change. Thus, the Sign is permitted as an LED illuminated changeable message sign, and it is not subject to a five minute or any other restrictions on change time.

B. *The Sign is exempt under Section 4619(c) of the Code.*

The Sign is exempt under Section 4619(c) of the Houston Sign Code. This provision exempts religious and other non-commercial messages from the various provisions of the Houston Sign Code, including the LED illumination and frequency of the changing of the message restrictions, and states as follows:

(c) Exclusion. The provisions of this section shall not be construed to require the removal of a structure that is used exclusively and at all times (except when there is no copy at all on the structure) for messages that do not constitute advertising, including but not limited to, political messages, religious or church related messages, public service, governmental and ideological messages and other copy of a nature that is not commercial advertising because such a structure is not a

¹ Exhibit 2 includes four attachments marked as Exhibits 1 through 4. In order to avoid confusion, these four attachments have been re-marked as Exhibits 2-1, 2-2, 2-3, and 2-4 to this Appeal.

“sign” (either on-premise or off-premise), as that term is defined, for purposes of this chapter and is not subject to regulation under this chapter. A structure that is subject to regulation under this chapter may contain non-commercial messages in lieu of or in addition to any other messages, but the structure shall not be exempt from regulation as a sign under this chapter unless used exclusively and at all times as provided above for non-commercial messages.

Since the Church’s Sign displays only religious non-commercial messages, it is not even considered a “sign” subject to regulation by the Houston Sign Code. Structures that display such non-commercial messages exclusively and at all times need not comply with the height, size, number, spacing, illumination, or other restrictions in the Code. Therefore, the Sign may be operated as an LED illuminated changeable message sign without regard to the frequency of the changing of the message.

C. Even if it were subject to regulation by the Code, as a grandfathered structure, the LED illumination and change frequency provisions do not apply.

Even if the Sign was subject to regulation by the Houston Sign Code, the LED illumination and change frequency provisions do not apply because it is grandfathered as a non-conforming use and structure. Specifically, the Sign was permitted before the preliminary injunction order, final decision, and appeals were decided in the case of *RTM Media vs. City of Houston*. In connection with this case, rulings were made about the constitutionality of exemptions provided for non-commercial signage. These rulings originally caused the Houston City Council to amend, and later reinstate, Section 4619(c) of the Houston Sign Code. However, the *RTM* decisions and action of the City Council all occurred well after the Sign was legally permitted in February 2007. Therefore, the Sign is grandfathered for its use as an LED illuminated changeable message sign without any limitation on the changing of the frequency of the message.

D. The Sign is not subject to the September 1, 2009 amendments to the Code.

The Houston Sign Code was also amended effective September 1, 2009, in order to add additional restrictions on changeable message and LED illuminated signs. As indicated, however, the Sign previously existed as a permitted legal use and structure. Therefore, the Sign is grandfathered and need not comply with the provisions recently added by the City Council which became effective on September 1, 2009.

E. Previous Sign Administrator Susan Luycx agreed the Sign is grandfathered and not subject to the Code’s regulations.

The Sign was previously the subject of similar communications with the Houston Sign Administration, including former Houston Sign Administrator Susan Luycx. Ms. Luycx confirmed the foregoing in the email transmission attached as Exhibit 2-4. More specifically, Ms. Luycx stated, “...the permit was issued using the Sign Code in effect in February of 2007 which is prior to any court case or injunction and prior to the code change; therefore, the

March 11, 2010

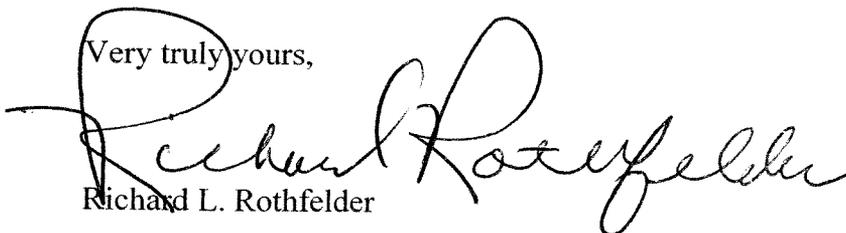
Page 4

electronic church sign is considered 'grandfathered' and is not subject to the sign Code regulations." Ms. Luycx concluded by stating, "I will inform the Inspector that the warning notice issued [see Exhibit 2-1] is invalid and must be withdrawn."

IV. Conclusion

Based on the foregoing, the Church respectfully requests that the Board conduct a formal hearing, that the decision of the City be reversed, and that the Church be permitted to continue to operate its Sign. Consistent with a telephone conversation I had with Mr. Buck today, I will be in contact with him regarding the scheduling of the hearing on this Appeal, which I understand may be scheduled at 5:00 p.m. on the fourth Thursday of each month. Please do not hesitate to contact me should you have any questions or require any further information

Very truly yours,

A handwritten signature in cursive script that reads "Richard L. Rothfelder". The signature is written in black ink and is positioned to the right of the typed name.

Richard L. Rothfelder

JLD
Enclosures

March 11, 2010

Page 5

cc: General Appeals Board **Via Certified Mail, RRR #7009 1680 0001 7224 8030**
c/o Maria Vrana, Secretary
City of Houston
3300 Main, 2nd Floor
Houston, TX 77002

General Appeals Board **Via Certified Mail, RRR #7009 1680 0001 7224 8054**
c/o Katie Tipton, Division Manager
Houston Sign Administration
City of Houston
2636 South Loop West, Suite 675
Houston, TX 77054

Larry W. Schenk **Via Certified Mail, RRR #7009 1680 0001 7224 8061**
Senior Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, TX 77001-0368

Robert Buck **Via Certified Mail, RRR #7009 1680 0001 7224 8085**
Building Official Designee/General Appeals Board
City of Houston
P.O. Box 61167
Houston, TX 77208-1167



CITY OF HOUSTON

Legal Department

Annise D. Parker

Mayor

Arturo Michel
City Attorney
Legal Department
P.O. Box 368
Houston, Texas 77001-0368
City Hall Annex
900 Bagby, 4th Floor
Houston, Texas 77002

T. 832.393.6491
F. 832.393.6259
www.houstontx.gov

March 3, 2010

Richard Rothfelder
Rothfelder & Falick, LLP
1201 Louisiana Street, Suite 550
Houston, Texas 77002

Sent Via Certified Mail, RRR # 7004 1160 0004 1206 9797

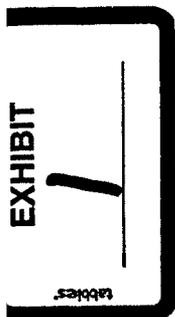
Re: Trinity Lutheran Church LED Sign

Dear Mr. Rothfelder:

This letter is in response to your correspondence dated December 23, 2009, regarding the LED sign located at 800 Houston Avenue, Houston, Texas (the "Sign"), the location of Trinity Lutheran Church (the "Church").

As an initial matter, the Sign is not exempt from the requirements of Chapter 46 of the Building Code of the City of Houston (the "Sign Code"). When City Council passed Ordinance No. 2009-655 last year, several relevant amendments to the Sign Code went into effect: first, the definition of "sign" was amended to include any display that is "used to advertise or *inform*" (emphasis added). In addition, Section 4611(h) was added, providing that the City's regulations on changeable message and high technology signs apply "to all *existing* and new changeable message and high technology signs" (emphasis added). Finally, the definition of "spectacular sign" was amended to an "[a]utomatically changing message that changes more often than once every five minutes," such signs being prohibited pursuant to Section 4608(m) of the Sign Code.

The provisions cited above are clearly applicable to the Sign. The purpose of the Sign is to inform church members, as well as motorists and pedestrians, of the activities and services that the Church provides. While these messages are not technically advertisements, they do provide information to the readers. The Sign itself, as you have noted, is a changeable message sign. Pursuant to Section 4611(h), therefore, the regulations on changeable message signs apply to the Sign regardless of whether it existed before or after Ordinance No. 2009-655 was passed. Consequently, the prohibition against changeable message signs whose message changes more frequently than once



every five minutes applies to the Sign. It is noteworthy that you do not argue that these ordinance provisions require substantive structural changes to the Church's sign; indeed, Section 4611(h) merely regulates the brightness and duration of the message and nothing more.

With regard to the previous Sign Administrator's email of February 12, 2009, that email was written several months before the passage of Ordinance No. 2009-655, and is not inconsistent with the City's current position; namely, that Ordinance No. 2009-655 expands the definition of sign to informative displays such as the Sign and regulates preexisting, present and future changeable message signs.

Please let this letter serve as notice that the Sign must comply with all applicable sign regulations not later than March 31, 2010. The Sign cannot change its message more frequently than every five minutes, or the Sign will be prohibited, and the City will proceed to exercise the remedies available to it for enforcement against noncompliance with the Sign Code.

Please feel free to contact this office if you wish to discuss this matter in further detail. All future communication regarding this matter should be directed to the undersigned or the municipal court prosecutor, as appropriate.

Sincerely,



Larry W. Schenk
Senior Assistant City Attorney

This letter is a response to your correspondence and should not be considered an official opinion of the City of Houston Legal Department.

cc: Susan T. Taylor, Deputy City Attorney
Andrew F. Icken, Chief Development Officer
Mark Loethen, Acting Deputy Director, Planning and Development Services,
Department of Public Works and Engineering
Katherine Tipton, Division Manager, Sign Administration, Department of Public
Works and Engineering
Nancy Brewer, Staff Analyst, Department of Public Works and Engineering

ROTHFELDER & FALICK, L.L.P.
ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-228
FACSIMILE: 713-658-821
WWW.ROTHFELDERFALICK.CO

December 23, 2009

Ms. Katye Tipton
Sign Administrator
City of Houston
P.O. Box 61167
Houston, TX 77028-1167

**Via Certified Mail, RRR, #7009 1680 0001 7224 8931
and Email**

**RE: LED Illuminated Changeable Message Sign of Trinity Lutheran Church
located at 800 Houston Avenue; Our File No. 1440-1.**

Dear Katye:

The law firm of Rothfelder & Falick, L.L.P. represents Trinity Lutheran Church (the "Church"), in connection with its LED (light emitting diode) illuminated changeable message sign located at 800 Houston Avenue, Houston, Texas (the "Sign"). As such, the enclosed Notice for Sign Violation ("Notice", Exhibit 1) dated December 21, 2009 to the Church has been referred to us for handling and this response.

The Notice alleges the Houston Sign Code is violated by the Church for using its Sign in the following manner: "LED boards cannot change messages more than every five minutes." We respectfully disagree with the alleged violation contained in the Notice for the following reasons.

First, the Sign, photographs of which are attached as Exhibit 2, displays the Church's worship times and other non-commercial messages. It is legally permitted as a grandfathered non-conforming use and structure. Enclosed as Exhibit 3 are the permit and associated materials for the Sign, indicating issuance in February 2007 without regulating the frequency of the message change. Thus, the Sign is permitted as an LED illuminated changeable message sign, and it is not subject to a five minute or other change time.

Second, the Sign is exempt under Section 4619(c) of the Houston Sign Code. This provision exempts religious and other non-commercial messages from the various provisions of the Houston Sign Code, including the LED illumination and frequency of the changing of the message restrictions:



(c) Exclusion. The provisions of this section shall not be construed to require the removal of a structure that is used exclusively and at all times (except when there is no copy at all on the structure) for messages that do not constitute advertising, including but not limited to, political messages, religious or church related messages, public service, governmental and ideological messages and other copy of a nature that is not commercial advertising because such a structure is not a "sign" (either on-premise or off-premise), as that term is defined, for purposes of this chapter and is not subject to regulation under this chapter. A structure that is subject to regulation under this chapter may contain non-commercial messages in lieu of or in addition to any other messages, but the structure shall not be exempt from regulation as a sign under this chapter unless used exclusively and at all times as provided above for non-commercial messages.

Since the Sign of the Church is limited to religious non-commercial messages, it is not even considered a "sign" subject to regulation by the Houston Sign Code. Therefore, the Sign may be operated as an LED illuminated changeable message sign without regard to the frequency of the changing of the message.

Third even if the Sign was subject to regulation by the Houston Sign Code, the LED illumination and change frequency provisions do not apply because it is grandfathered as a non-conforming use and structure. Specifically, the Sign was permitted before the preliminary injunction order, final decision, and appeals were decided in the case of *RTM Media vs. City of Houston*. In connection with this case, rulings were made about the constitutionality of exemptions provided for non-commercial signage. These rulings originally caused the Houston City Council to amend, and later reinstate, Section 4619(c) of the Houston Sign Code. However, the *RTM* decisions and action of the City Council all occurred well after the Sign was legally permitted. Therefore, the Sign is grandfathered for its use as an LED illuminated changeable message sign without any limitation on the changing of the frequency of the message.

Fourth, the Houston Sign Code was also amended effective September 1, 2009, in order to add additional restrictions on changeable message and LED illuminated signs. As indicated, however, the Sign previously existed as a permitted legal use and structure. Therefore, the Sign is also grandfathered and need not comply with the provisions recently added by the City Council and effective September 1, 2009 either.

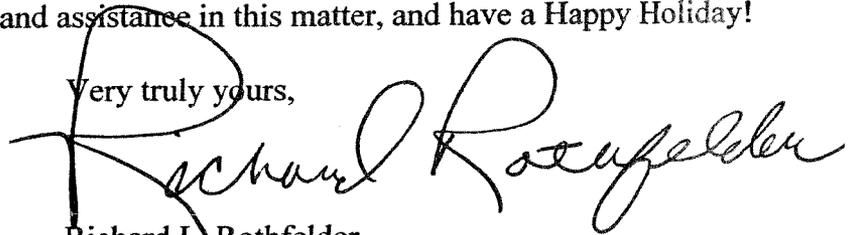
Fifth, the Sign was previously the subject of similar communications with the Houston Sign Administration, including former Houston Sign Administrator Susan Luycx. Ms. Luycx confirmed in the email transmissions attached as Exhibit 4 the foregoing explanations, namely that "the electronic church sign is considered grandfathered and it not subject to the sign code regulations."

I trust the foregoing explanation clarifies the apparent misunderstanding about the Church and the Sign. If you continue to have any questions or require any further assistance, please contact me at your earliest convenience. Otherwise, the Church will consider the apparent discrepancy resolved, and it will continue to operate the Sign in a legal fashion.

Ms. Katye Tipton
December 23, 2009
Page 3

Thank you for your cooperation and assistance in this matter, and have a Happy Holiday!

Very truly yours,

A handwritten signature in cursive script that reads "Richard Rothfelder". The signature is written in black ink and is positioned to the right of the typed name.

Richard L. Rothfelder

RLR:mr
Enclosures

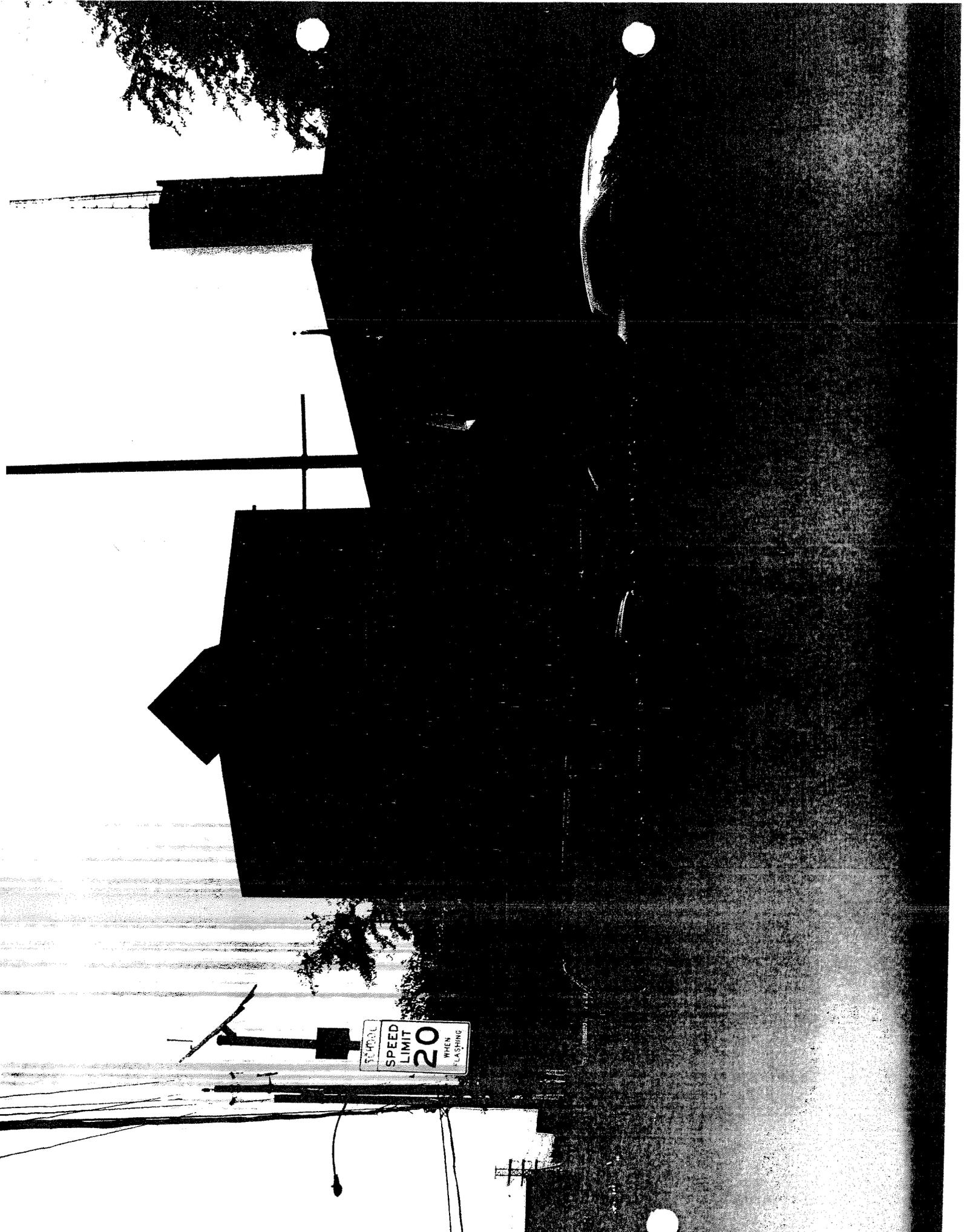
EXHIBIT

2-2

tabbles

LETTERMAN CHURCH & SCHOOL

1000 10th Ave. S.W.



SCHOOL
SPEED
LIMIT
20
WHEN
FLASHING



TRINITY

Downtown

LUTHERAN CHURCH & SCHOOL

DAVIDSON

DAVIDSON

www.trinitydt.org • Established 1879

800 Houston

City of Houston Department of Planning & Development Sign Administration

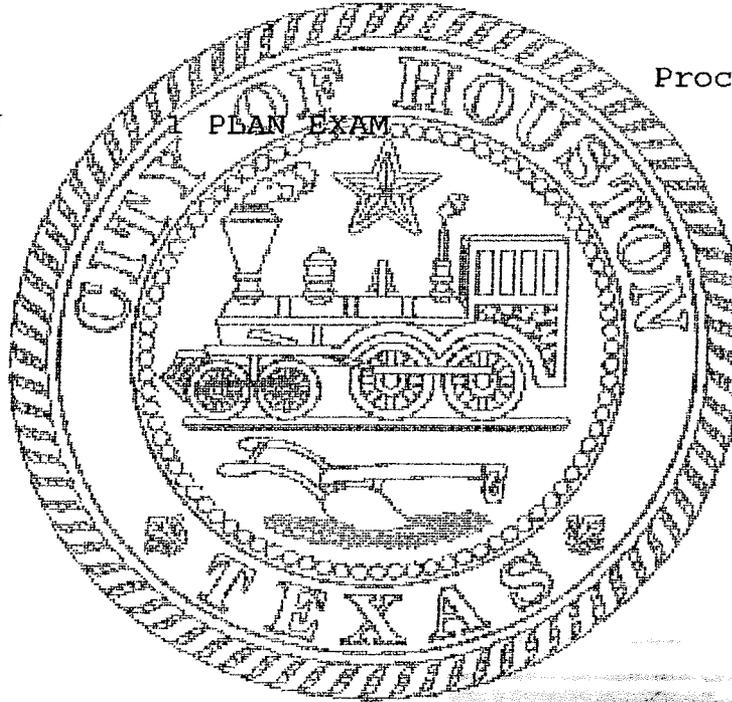
Applicant, by the making execution and submitting of application to the Planning & Development Department of the City of Houston, Texas represents and warrants that the proposed construction described in said application is not in violation of or contrary to any deed restriction or covenant running with the land relating to the addition or subdivision, if any, in which the herein described lot, tract or parcel of land is situated.

The applicant further represents and warrants to the City of Houston, Texas and to the property owners lying and situated within the addition or subdivision in which the herein tract of land is situated, that such application, and the erection of the herein described construction and the eventual use thereof will not be used for any purpose which is prohibited by the deed restrictions or covenants running with the land within such subdivision or addition.

Applicant accepts this building permit subject to the foregoing representation and warranties and agrees that if such construction or use be in violation of any deed restrictions or covenants running with the land that such building permit shall automatically become void and of no effect without the necessity of any action on the part of the City of Houston, Texas or any property owner.

Date 27-FEB-2007		Receipt No. 3822790		Proj. Type SHELL		Project No. 0701712	
Occupant *TRINITY LUTHERAN CHURCH							
Address 800 HOUSTON AVE							
City HOUSTON		Zip Code 77007		County HARRIS		Bldgs 01	
Units 2		Story 2		Occ. Gp 5 E A		Zone	
Applicant *STATE SIGN							
Lic. No. 00001013						Phone 7139431869	
Use N1 2F 1P ILUM 12X12X19 TRINITY DOWNTOWN							

	SIGN SITE INSPECTION PERMIT	APA CHRG	\$105
SIGN SITE INSP		TOTAL FEE	105.0
1 SITE INSPECTN	PLAN EXAM	Permit Fee	95.0
		Processing Fee	10.0
			95.0



PERMIT and FEES POST PERMIT ON JOB LOCATION

FOR REINSPECTION CALL:

Sign Administration 713-535-7900

Interactive Voice System 713-525-70

Any structural work authorized by this permit is issued based on an affidavit stating that the work above does not violate any applicable deed restriction or supercede any orders issued by the D. B. Hearing Office.



City of Houston Department of Planning & Development Sign Administration

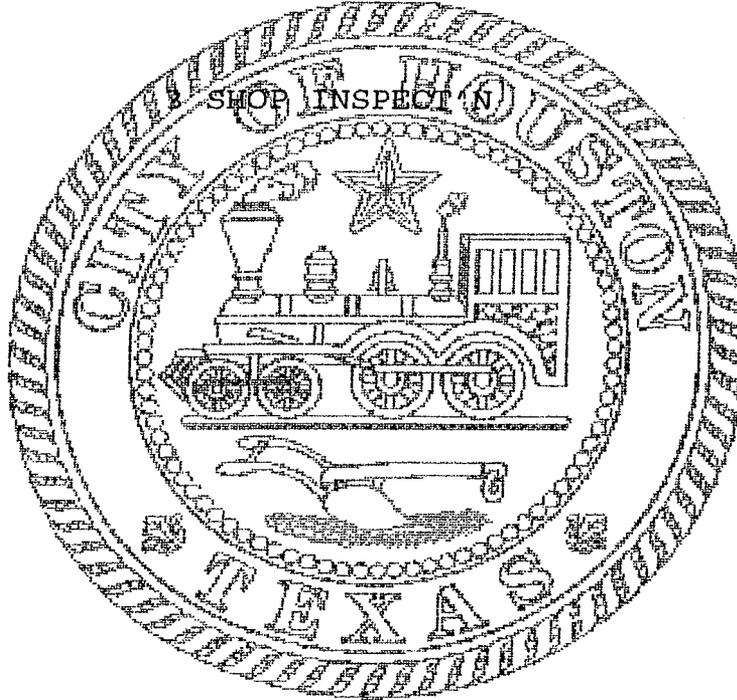
Applicant, by the making execution and submitting of application to the Planning & Development Department of the City of Houston, Texas represents and warrants that the proposed construction described in said application is not in violation of or contrary to any deed restriction or covenant running with the land relating to the addition or subdivision, if any, in which the herein described lot, tract or parcel of land is situated.

The applicant further represents and warrants to the City of Houston, Texas and to the property owners lying and situated within the addition or subdivision in which the herein tract of land is situated, that such application, and the erection of the herein described construction and the eventual use thereof will not be used for any purpose which is prohibited by the deed restrictions or covenants running with the land within such subdivision or addition.

Applicant accepts this building permit subject to the foregoing representation and warranties and agrees that if such construction or use be in violation of any deed restrictions or covenants running with the land that such building permit shall automatically become void and of no effect without the necessity of an action on the part of the City of Houston, Texas or any property owner.

Date 27-FEB-2007		Receipt No. 3822791		Proj. Type SHELL		Project No. 070174	
Occupant *TRINITY LUTHERAN CHURCH						Sprinklers	
Address 800 HOUSTON AVE						Space	
City HOUSTON						TID No. 013-151-000-001	
Zip Code 77007		County HARRIS		Bldgs 01	Units	Story 2	Occ. Gp 5 E A
Applicant *STATE SIGN						Lic. No. 7321	
Use N1 2F 1P ILUM 12X12X19 TRINITY DOWNTOWN						Phone 7139431869	

	SIGN ELECTRICAL INSTALLATION	APA CHRGR	\$210.00
SIGN ELEC INST		TOTAL FEE	210.00
		Permit Fee	210.00
3 ADDED LOAD			210.00



PERMIT and FEES POST PERMIT ON JOB LOCATION

FOR REINSPECTION CALL:

Sign Administration 713-535-7900

Interactive Voice System 713-525-71

Any structural work authorized by this permit is issued based on an affidavit stating that the work above does not violate any applicable deed restriction or supercede any orders issued by the D. B. Hearing Office.

City of Houston Department of Planning & Development Sign Administration

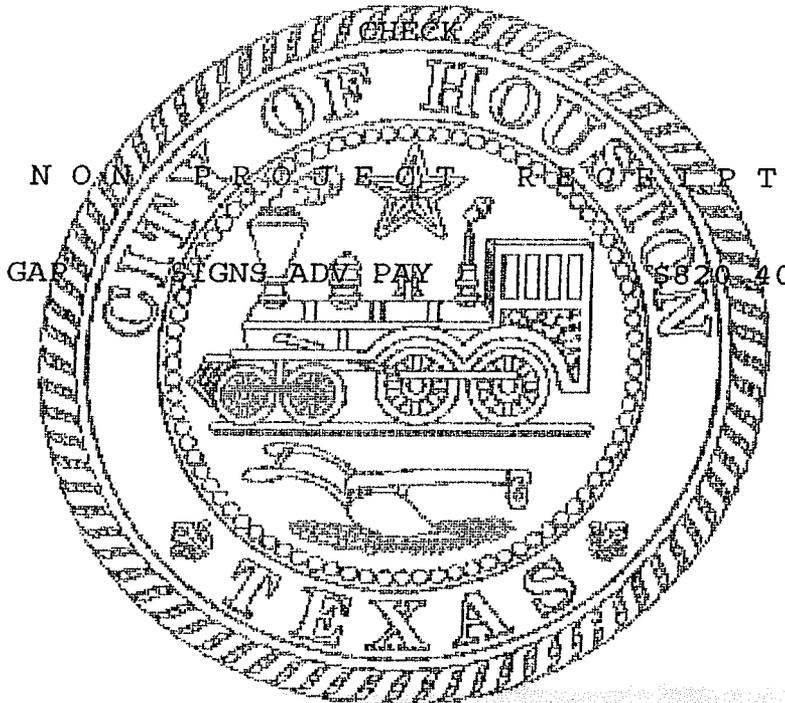
Applicant, by the making execution and submitting of application to the Planning & Development Department of the City of Houston, Texas represents and warrants that the proposed construction described in said application is not in violation of or contrary to any deed restriction or covenant running with the land relating to the addition or subdivision, if any, in which the herein described lot, tract or parcel of land is situated.

The applicant further represents and warrants to the City of Houston, Texas and to the property owners lying and situated within the addition or subdivision in which the herein tract of land is situated, that such application, and the erection of the herein described construction and the eventual use thereof will not be used for any purpose which is prohibited by the deed restrictions or covenants running with the land within such subdivision or addition.

Applicant accepts this building permit subject to the foregoing representation and warranties and agrees that if such construction or use be in violation of any deed restrictions or covenants running with the land that such building permit shall automatically become void and of no effect without the necessity of any action on the part of the City of Houston, Texas or any property owner.

Date 27-FEB-2007		Receipt No. 0669473			Proj. Type		Project No. NON-PROJECT	
Occupant					Sprinklers % Type			
Address 7630 HANSEN		Space		TID No.				
City HOUSTON		Zip Code 77061	County	Bldgs	Units	Story	Occ. Gp Zone	
Applicant *STATE SIGN					Lic. No. 00001013		Phone 713-943-1869	
Use 2007DEPOSIT INTO APA ACCOUNT								

\$820.40



PERMIT and FEES POST PERMIT ON JOB LOCATION

REINSPECTION CALL:

Administration

713-535-7900

Interactive Voice System

713-525-7000

Any structural work authorized by this permit is issued based on an affidavit stating that the work above does not violate any applicable deed restriction. This permit does not supercede any orders issued by the D. B. Hearing Office.

NA
 1. If yes, notify applicant.----- NA Yes/No/NA Yes/No/NA Yes
 / NA
 b. If utilities are not marked, can you determine the ROW?-----Yes Yes Yes/No/NA Yes/No/NA
 Yes/No/NA
 1. If no, notify applicant.
 2. If yes, is the sign encroaching into the ROW?----- No No Yes/No/NA Yes/No/NA
 Yes/No/NA
 a. If yes, notify applicant.

Other Signs:
 7. Is the projecting sign 14ft from finished grade and 2ft behind curb?----- NA NA Yes/No/NA Yes/No/NA Yes/No
 3. Is the marquess sign, 8ft from finished grade?----- NA NA Yes/No/NA Yes/No/NA Yes/No
 2. Is the sign located within the Harris County Toll Road Authority jurisdiction?----- No No Yes/No/NA Yes/No/NA Yes/No
 a. If yes, do you have a copy of the county permit?----- NA NA Yes/No/NA Yes/No/NA Yes/No
 10. Is the business enterprise a sexually oriented business?----- No No Yes/No/NA Yes/No/NA Yes/No
 NA
 a. If yes, has Vice of HPD been notified to your knowledge?----- NA No Yes/No/NA Yes/No/NA Yes/No
 NA b. If no, notify your Section Chief.
 11. As a result of the above site questionnaire, does the applicant need to be notified of deficiencies? (x) No () Yes **If yes, who did you notify, time and date**

Site Rejection Comments:

RM *12/28/03*

Reviewing CDP Supervisor

Date

Location:

Trinity Lutheran Church

800 Houston Ave

Houston Tex
77007

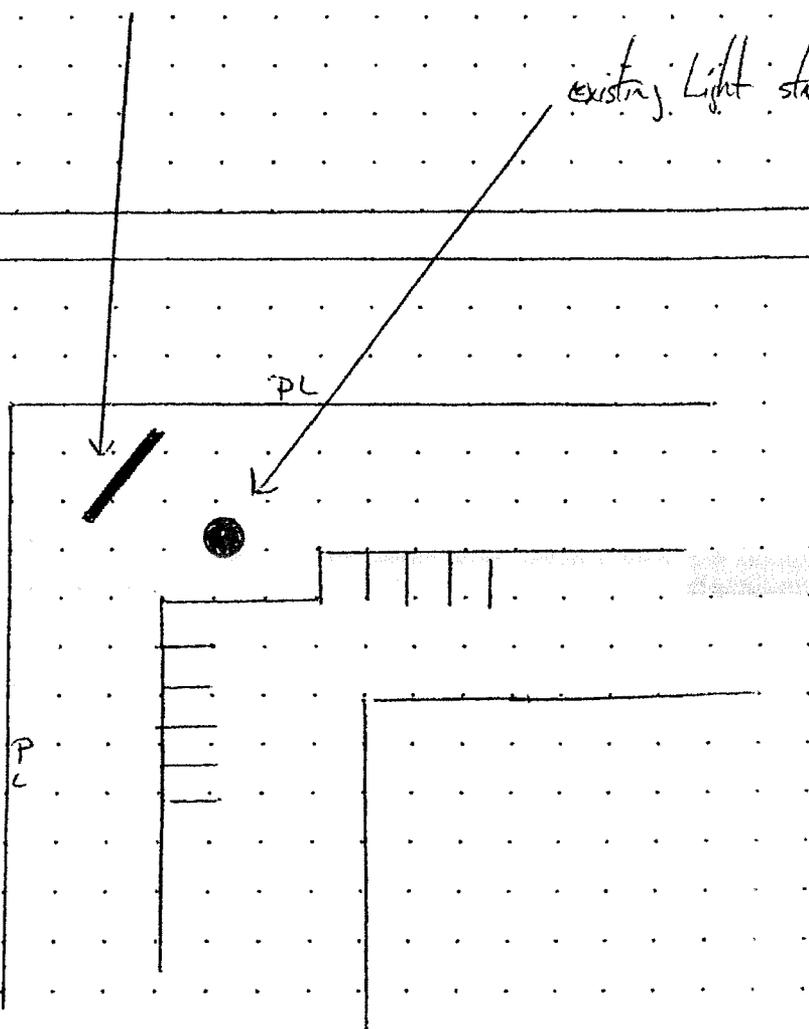
STATE SIGN
CORPORATION

SITE SURVEY



new N/F monument sign

existing light standard





STATE SIGN CORPORATION

PO Box 750429 / 7630 Hansen
Houston, Texas 77275-7061
(713) 943-1831

JPMorgan Chase Bank
Dallas, TX 75201-2733

87979

32-115/4110

7/15/11

2/26/2007

PAY TO THE
ORDER OF

CITY OF HOUSTON

\$ 820.40

DOLLARS

Eight-hundred-twenty $\frac{40}{100}$

CITY OF HOUSTON

[Handwritten Signature]
NOT NEGOTIABLE
AUTHORIZED SIGNATURE

MEMO

⑆087979⑆ ⑆100⑆⑆50⑆⑆040002710⑆

State Sign Corporation

CITY OF HOUSTON

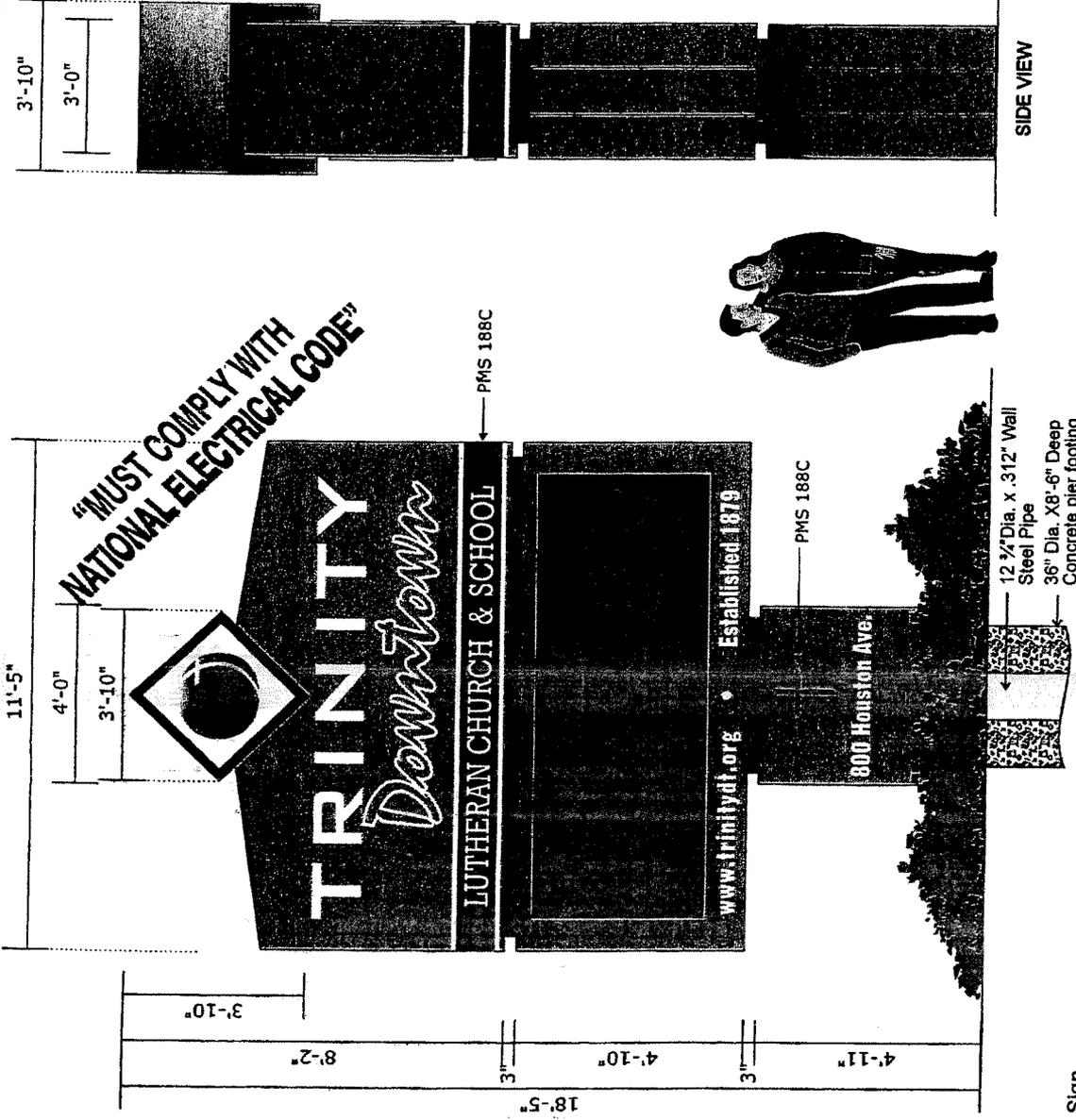
PERMIT

2/26/2007

87979

7-48812- WAGGERS - 215 WESTHEMER -	200.00
1-48796 TRINITY LUTHERAN CHURCH - 800 HOUSTON AVE. -	315.00
1-48402- TRUSTMARK - 11709 WILCREST -	305.40
	<u>11709</u>
	820.40

Chase Bank-Ch



Description

Manufacture and install one (1) double faced, internally illuminated pylon sign with routed aluminum faces as shown. All copy on top cabinet to be 3/4" push thru, with 1st surface vinyl as required. Copy on bottom cabinet to be 3M HP white vinyl applied to first surface.

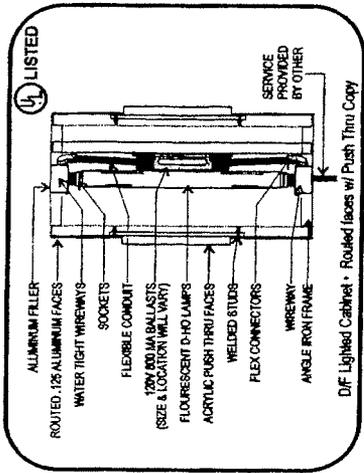
Logo shall be 1st surface Digital Print.
Top cabinet to include photo cell.

Colors

- PMS 451C (Taupe)
- ICI 70RR 10/250 (Tapestry Red)
- White Acrylic
- 3M Translucent Burgundy
- 3M Translucent Turquoise
- 3M HP White Vinyl

Electronic Display

Daktronics Galaxy 20mm monochrome 3400 series. Double face with a display of 48x176 matrix. Message center will be operated via radio frequency modem. Display color to be 64 shades of monochrome amber.



Pylon Sign

Scale: 3/8" = 1'-0"

Customer Approval

Sign: _____ Date: _____



7630 Hansen
Houston, TX 77061 713.943.1832
3400 South Hwy 87
Orange, TX 77630 409.735.5553
www.statesign.com

This drawing is the
State Sign Corp.
and all rights to its
design and content
are reserved by
State Sign Corp.

- Permit (s2)
- Master
- Shop File
- Charmed Lr
- Noon
- Router
- Art Dept
- Print Dept
- Purchasing
- Check/Ship
- Install File
- Installation

Work Order 1-48786

Designer: Jim Stettner

File: S:\Trinity Downtown\Trinity Downtown7.cdr

Drawing No. 07.4749

Date: 03/24/06 Revised: 2-9-07

Sales Rep: Rani Huffaker

Job Location: **TRINITY DOWNTOWN**

Street: **800 Houston Ave.**

City, State: **Houston, Texas 77007**

GRANDFATHER NOTICE

Nelson Flanagan

From: Luycx, Susan - PWE - CE [Susan.Luycx@cityofhouston.net]
Sent: Thursday, February 12, 2009 6:52 AM
To: 'marisa@statesign.com'; Nelson Flanagan; 'rani@statesign.com'
Cc: Lorton, Lisa - PWE - CE; McClennon, Robert - PWE - CE
Subject: FW: SEE BELOW

Good morning everyone.

The issue with regard to the warning notice issued to Trinity Church has made it to my desk for review. In researching this, the permit was issued using the Sign Code in effect in February of 2007 which is prior to any court case or injunction and prior to the code change; therefore, the electronic church sign is considered "grandfathered" and is not subject to the Sign Code regulations. I will inform the Inspector that the warning notice issued is invalid and must be withdrawn.

Let me know if there are any questions.

Susan Luycx

Division Manager/Sign Administrator

Sign Administration

713-218-5829 (X 85829)

713-218-5838 Fax

susan.luycx@cityofhouston.net

www.publicworks.houstontx.gov/planning/enforcement/signadmin.htm

From: Marisa Ayala [mailto:marisa@statesign.com]
Sent: Tuesday, February 10, 2009 4:00 PM
To: Robert McClennon
Subject: FW: from Nelson

Woodie,



11:24:12 PM 1

2

3

4

11:24:12 PM 5

6

7

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9

11:24:12 PM 10

11

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13

14

11:24:12 PM 15

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25

CITY OF HOUSTON

3300 Main, Room #2054
Houston, Texas

**GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH**

HEARING DATE:

June 24, 2010, at 5:00 p.m.

*TRANSCRIPT
Received
8/22/10*

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

A P P E A R E N C E S

CO-CHAIRMAN:

Mr. Reginald L. Mack

BOARD MEMBERS:

Ms. Debra Y. Davis

Ms. Leslie B. Davidson

Mr. Solomon B. Silva

Mr. C. Mike Garver

Mr. Edward E. Campbell

Mr. Scott Stelter

Mr. Perry Schindewolf

Mr. Robert Buck

ALSO PRESENT:

Ms. Evelyn Njuguna
City of Houston

Ms. Katherine Tipton
City of Houston

Ms. Lisa Lorton
City of Houston

Ms. Denise Miller
City of Houston

Mr. Richard L. Rothfelder
Rothfelder & Falick, L.L.P.

Ms. Rani Huffaker
State Sign

Pastor Michael Dorn
Trinity Lutheran Church

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:24:12 PM 1

A P P E A R E N C E S (Continued)

2

Ms. Tiffany Pino Cruse
Court Reporter

3

4

11:24:12 PM 5

6

Various of other observers attended without providing
their names and/or their names were removed to reflect
only excerpt participants.

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GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

P R O C E E D I N G S

11:24:12 PM 1

2

CO-CHAIRMAN MACK: Okay.

3

We'll call the meeting to order.

4

(Unrelated portion was removed.)

11:24:12 PM 5

6

CO-CHAIRMAN MACK: Okay. We're going to call the meeting back to order.

7

MR. ROTHFELDER: Where would you like us

8

to sit?

9

CO-CHAIRMAN MACK: Any -- any place you

11:24:13 PM 10

can find is okay.

11

MR. ROTHFELDER: Uh-huh.

12

MS. LORTON: Sit here.

13

CO-CHAIRMAN MACK: There on the table is

14

fine.

11:24:13 PM 15

16

MR. ROTHFELDER: Michael, you sit there.

17

PASTOR DORN: Okay.

18

MR. ROTHFELDER: I'll sit here.

19

CO-CHAIRMAN MACK: It didn't help the other guys.

11:24:13 PM 20

21

(Discussion off the record.)

22

CO-CHAIRMAN MACK: All right. The -- this appeal is, once again, Richard Rothfelder

23

representing Trinity Lutheran Church at 1201 Louisiana

24

Street --

11:24:15 PM 25

(Discussion off the record.)

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:24:15 PM 1

(Discussion off the record.)

2

CO-CHAIRMAN MACK: It's not right?

3

MS. DAVIS: It's one --

4

CO-CHAIRMAN MACK: Okay. Okay. Okay.

11:24:16 PM 5

I'm sorry, I'm reading two parts. All right. 800

6

Houston Avenue. Okay. Would those persons who are

7

going to testify, or potentially testify, stand up and

8

be sworn in?

9

THE REPORTER: Okay.

11:24:18 PM 10

CO-CHAIRMAN MACK: And that does not mean

11

you have to say anything, but just in case you feel the

12

urge, okay?

13

THE REPORTER: Would you raise your right

14

hand for me?

11:24:19 PM 15

(The witnesses were sworn in.)

16

CO-CHAIRMAN MACK: Okay.

17

Presenting for the City?

18

MS. MILLER: Hi, my name is Denise Miller

19

and I'm presenting for the City.

11:24:20 PM 20

CO-CHAIRMAN MACK: Okay. Go -- all

21

right.

22

MS. MILLER: All right.

23

CO-CHAIRMAN MACK: You can go right

24

ahead. You go first.

11:24:21 PM 25

MS. DAVIS: You get first shots.

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:24:22 PM 1 (Discussion off the record.)
2 MS. LORTON: It's Mr. Roth --
3 Rothfelder's appeals.
4 CO-CHAIRMAN MACK: Yeah, but we always
11:24:23 PM 5 let the City go first.
6 MS. MILLER: Oh, okay.
7 MS. LORTON: Okay.
8 CO-CHAIRMAN MACK: We want -- we want to
9 hear you-all's opinion first.
11:24:24 PM 10 MS. MILLER: Okay.
11 Good afternoon -- or good evening. My
12 name is Denise Miller and I'm an attorney with the
13 City of Houston. And we've brought some sign codes for
14 everyone's viewing pleasure so you can follow our
11:24:28 PM 15 arguments.
16 MS. LORTON: Where would you the video of
17 the actual sign that's in question?
18 CO-CHAIRMAN MACK: I guess, we can go
19 down on that end.
11:24:31 PM 20 MS. LORTON: That end? I'll -- I mean,
21 it'll play.
22 CO-CHAIRMAN MACK: Okay.
23 MR. BUCK: Take all that -- that's --
24 okay.
11:24:31 PM 25 MS. LORTON: They couldn't find the

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:24:31 PM 1 projector in time for me to get set up.
2 MR. BUCK: Oh, okay.
3 MS. MILLER: Does everyone have the sign
4 code?
11:24:31 PM 5 CO-CHAIRMAN MACK: It probably would be
6 good to get it where Mr. Rothfelder can see what it.
7 MS. LORTON: Can -- can he --
8 CO-CHAIRMAN MACK: Can you get it that
9 far?
11:24:31 PM 10 PASTOR DORN: Can I push it -- this, can
11 I --
12 CO-CHAIRMAN MACK: Yeah.
13 PASTOR DORN: Down --
14 MS. LORTON: Can y'all --
11:24:32 PM 15 PASTOR DORN: -- is that all right?
16 MS. LORTON: -- see it?
17 (Discussion off the record.)
18 CO-CHAIRMAN MACK: Okay. All right. All
19 right. Okay.
11:24:33 PM 20 MR. MILLER: In here, also, is City's --
21 (Discussion off the record.)
22 MS. DAVIDSON: I didn't receive a sign
23 code. I'm happy to --
24 CO-CHAIRMAN MACK: Okay. All right.
11:24:34 PM 25 MS. DAVIDSON: Okay.

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:24:34 PM 1 CO-CHAIRMAN MACK: There you go.
2 MS. DAVIDSON: Thanks.
3 MS. MILLER: Do you have one?
4 MR. SILVA: Do you got one left?
11:24:35 PM 5 MR. BUCK: No, I don't.
6 (Discussion off the record.)
7 MR. BUCK: No, I don't have one here.
8 (Discussion off the record.)
9 MR. BUCK: This is the amendment?
11:24:36 PM 10 (Discussion off the record.)
11 MS. MILLER: Everyone should have two
12 documents.
13 MR. SILVA: Yes, ma'am.
14 MR. BUCK: Do you have another?
11:24:36 PM 15 MS. MILLER: Yeah.
16 MR. BUCK: Actually, two.
17 Leslie, you don't have one of these, do
18 you (indicating)?
19 MS. DAVIDSON: I did get one.
11:24:37 PM 20 MR. BUCK: Do you? Okay. Yeah, one more
21 then.
22 MS. DAVIDSON: Thank you.
23 MR. ROTHFELDER: Could I get a copy of
24 whatever is being handed out?
11:24:39 PM 25 CO-CHAIRMAN MACK: Sure. Yeah.

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:24:39 PM 1 MS. MILLER: And --
2 (Discussion off the record.)
3 CO-CHAIRMAN MACK: And if you have an
4 extra one, we need to get one too.
11:24:40 PM 5 MS. MILLER: Absolutely.
6 MR. BUCK: There's one copy here, but --
7 but we need another copy.
8 (Discussion off the record.)
9 PASTOR DORN: Thank you.
11:24:42 PM 10 MS. MILLER: Sure.
11 CO-CHAIRMAN MACK: All right. If you
12 tell me your name again.
13 MS. MILLER: Sure my name is
14 Denise Miller.
11:24:44 PM 15 THE WITNESS: Okay.
16 MS. MILLER: And I'm an --
17 CO-CHAIRMAN MACK: Thank you.
18 MS. MILLER: -- attorney with the City of
19 Houston Legal Department.
11:24:45 PM 20 And today the issue before the Board is
21 simple. Is the decision of the Sign Administrator
22 inconsistent with Houston's Sign Code? The answer is
23 no.
24 Before we go -- move forward, I'd like to
11:24:49 PM 25 make something clear, today we are not asking the church

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:24:50 PM 1 to change the messages that it displays on the sign or
2 to change the actual sign structure. We are simply
3 asking that the church comply with the provision of the
4 Sign Code which states how often a message on a sign can
11:24:55 PM 5 move. This is a health and safety issue.
6
7 As you are aware, this sign is located on
8 Houston Avenue and Washington. It's a very busy
9 location area in the City and there are a lot of
10 businesses along this -- these streets.
11:25:01 PM 10 And the issue is, today, that a warning
11 notice was issued in December of 2009 stating that
12 Trinity Church is in violation because changeable
13 message boards cannot change messages more than every
14 five minutes.
11:25:06 PM 15 It was observe -- observed by an employee
16 of the City of Houston Sign Administration, and the
17 video that we will be showing you and photographs that
18 we will be showing you, will demonstrate that the
19 Trinity sign does, in fact, change it's message more
11:25:11 PM 20 than even five minutes.
21
22 And I also believe that, based on the
23 correspondence that Mr. Rothfelder has written in his
24 response to the Board, that that's not at issue today.
11:25:14 PM 25 So we're not arguing about whether or not the message
changing more than every -- every five minutes. The

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:25:15 PM 1 issue is whether or not the City of Houston Sign Code
2 prohibits it.
3
4 Now, Houston Sign Code defines a sign --
5 if I could ask you-all, please, to take your Sign Code.
11:25:19 PM 5 CO-CHAIRMAN MACK: All right.
6 MS. MILLER: And turn to Section 4602,
7 page 7. And the City of Houston Sign Code, page 7,
8 defines what a sign is: A sign is defined as any
9 outdoor display, design, pictorial or other
11:25:24 PM 10 representation that shall be so construed, placed,
11 attached, painted, et cetera, et cetera, in any manner
12 whatsoever so that the same is designed, intended or
13 used to advertise or inform.
14 And that is the important word we're
11:25:30 PM 15 looking at today, okay? Informed. It is the City's
16 position, and the evidence will show, that the sign at
17 Trinity Lutheran Church, just like any other sign, is
18 used to inform the public. So that is the definition of
19 a sign, page 7.
11:25:36 PM 20 I would also like you, then, to please
21 turn to the next page and there's some other definitions
22 that I'd look you to please notice. That actually, on
23 page 33, the Houston City Sign Code says that:
24 Spectacular signs are prohibited. Okay. Spectacular
11:25:42 PM 25 signs are not allowed to be used in the City of Houston.

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:25:43 PM 1

And if you turn to page 12 of the Houston Sign Code: A spectacular sign shall mean a sign that has one or more of the following elements in its physical structure.

11:25:47 PM 5

And one of those elements is: A sign that automatically changes messages -- has a message that automatically changes more often than once every five minutes.

11:25:52 PM 10

So spectacular signs are prohibited in the City of Houston. Changeable message signs are allowed, a sign that changes its message, but you cannot have a sign that rolls or changes its message more than every -- once every five minutes.

11:25:57 PM 15

Now, I'd like you to, please, to turn to Section 4611(h) of the Houston Sign Code. That's Section 4611(h). And what 4611(h) says: Save and except for signs erected pursuant to the provisions of Section 4620, the following provisions shall apply to all existing and new changeable message and high technology signs.

11:26:03 PM 20

And if you go to (h)(3): A changeable message sign may not change the message more often than every five minutes and must change the message with one -- within one second or less.

11:26:08 PM 25

So it's very simple, based on the Houston

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:26:09 PM 1 Sign Code, any sign that has a changeable message sign
2 cannot roll it's message or change the message more than
3 once every five minutes. End of story.
4
11:26:13 PM 5 Now, you've had an opportunity to read
6 both the letters that Mr. Rothfelder has submitted and
7 that the City of Houston has submitted. One of many of
8 Mr. Rothfelder's claims is that if you turn to
9 Section 4619(c). That is page 79 of your Sign Code. If
10 you look at Section 49 -- 4619(c), Mr. Rothfelder is
11 saying that under the definition of 4619(c) that this
12 sign on Trinity's property does not constitute an
13 on-premise sign, that is excluded under this definition
14 in the Sign Code.
15
11:26:20 PM 16 But 4619, first, that applies only to
17 abatement of off-premise signs. That's not what we're
18 looking at today. We're not discussing an off-premise
19 sign.
20
11:26:25 PM 21 Number one, if you'd also look at 4619(c)
22 on page 79, it says: The provisions of this section
23 shall not be construed to require -- require the removal
24 of a structure.
25
11:26:31 PM 26 Once again, as I emphasized earlier, the
27 City is not asking the church to remove its structure in
28 any way. The City is not asking the church at this
29 point to change its messages in any way. The church is

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:26:37 PM 1 able to continue to run the messages that it would like
2 to run. But because of health and safety concerns, the
3 church, just like any other place that has an on-premise
4 sign, cannot have these flashing messages.

11:26:42 PM 5 I'd like you to picture yourself walking
6 down -- driving down Washington. If every single
7 business on Washington had a flashing sign that
8 continuously changed, it -- it would distract all the
9 drivers.

11:26:47 PM 10 Also, as you can see from the trin --
11 Trinity Luthern Church sign, and I'm sure you'll hear
12 testimony about that, it's a church and school. There
13 are children who attend the school who cross the street,
14 okay? We cannot have such distractions for the health
11:26:51 PM 15 and safety of children. Drivers are distracted by these
16 signs that are continuously moving. Drivers cannot be
17 distracted. They need to be paying attention to the
18 road and to what is surrounding it. So that's number
19 one in response to Mr. Rothfelder's defenses.

11:26:57 PM 20 Secondly, he argues that the sign is
21 grandfathered because permits were previously issued for
22 this sign. And those -- copies of those permits were
23 attached to Mr. Rothfelder's correspondence. Those
24 permits are not operational permits. Those permits are
11:27:03 PM 25 electrical in nature. So it has nothing to do with

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:27:05 PM 1 grandfathering or operating the signs, it's electrical.
2 Once again, we are not asking the church
3 to cut off its electricity, okay? It's a simple --
4 also, and simply, all one needs to do is go on the
11:27:10 PM 5 computer and change how often the message is -- appears
6 on the sign.
7 Also, Mr. Rothfelder says that the sign
8 is grandfathered. If you look at the Sign Code, there
9 is nothing in the Sign Code that says that this sign is
11:27:15 PM 10 grandfathered. This Sign Code is absolutely clear,
11 4611(h) says: Provision applies to all existing and new
12 changeable message signs. So that's it. It's that
13 simple, it's not complicated.
14 And also Mr. Rothfelder's attached, as an
11:27:22 PM 15 example -- an exhibit to his notification that, at some
16 point, Susan Luycx, who was previously the
17 Sign Administrator, had issued an e-mail in response to,
18 I believe it was one of her employees or an inquiry
19 about whether or not this sign was grandfathered. And
11:27:27 PM 20 that e-mail says the sign is grandfathered.
21 However, that e-mail was sent out in
22 February of 2009. It involved an issue that does not
23 involve what we're talking about today. If you look at
24 the e-mail, it's February, 2009. And the Ordinance that
11:27:33 PM 25 I've given to you-all in the second packet, if you look

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:27:35 PM 1 at the last page, that Ordinance was passed in July of
2 2009, and it became effective September. So any e-mails
3 prior to that -- obviously, we're not [sic] discussing
4 an Ordinance that was passed after that date, okay?

11:27:40 PM 5 Also, finally, while the City does
6 disagree that 4619(c) does not apply, period, at all to
7 this situation, even if some members of the Board might
8 say: Well, we think maybe it does.

9 What Mr. Rothfelder's trying to say,
11:27:45 PM 10 because this sign is a church sign and it's advertising
11 religious or church-related messages, it should be
12 excluded from the Sign Code. But as the evidence will
13 show, we'll show you a video and we'll show you some
14 photographs that were taken at different times of the
11:27:52 PM 15 Trinity Lutheran Church.

16 The church advertises classes for
17 Concordia University that are being held at the church.
18 Also the church sends a message to the GM Chevrolet
19 directly across the street. So, once again, those are
11:27:57 PM 20 not church related messages.

21 Also -- I would -- also, I would also
22 like you-all to keep in mind something here, the
23 technology continues to change. And it's important, as
24 with the City of Houston, that we keep up with the
11:28:01 PM 25 change in technology.

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:28:01 PM 1 So the argument that: Well, at one point
2 our -- you know, our sign or maybe our building wasn't
3 required to do A. And now, because the City has made a
4 new Ordinance, because our building was a -- or sign was
11:28:06 PM 5 in existence before you passed this Ordinance, we never
6 have to comply. That's not true.

7 As we all know, it is important, as
8 technology changes or, you know, different issues come
9 out, our Building Code changes or Sign Ordinance
11:28:11 PM 10 changes. And just as long as we're monitoring health
11 and safety, it's important that we keep up with that and
12 do what's best for the citizens of the City of Houston.

13 And also, another example is, say someone
14 purchased a vehicle five years prior and they used to
11:28:16 PM 15 drive up and down a street and the speed limit is
16 30 miles per hour. And then, the -- one day, it's
17 determined that the speed limit should be actually 10 or
18 20 miles per hour. It doesn't mean the owner of that
19 vehicle can continue to speed up and down the street
11:28:21 PM 20 because they owned the vehicle before that speed limit
21 was changed.

22 What I would like to do right now is
23 first show you a video that was taken.

24 CO-CHAIRMAN MACK: Could I ask a
11:28:25 PM 25 question? If -- if the point of the video is agreed to

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:28:26 PM 1 by Mr. Rothfelder and the church, do we really need to
2 go in -- in order to kind of speed up the time. I mean,
3 I know you-all have done a lot of work on this, but if
4 we accept it as the truth, the points you want to make,
11:28:31 PM 5 can -- can we skip the video?
6 Does that hurt anybody's feelings?
7 MS. DAVIDSON: How long is the video?
8 CO-CHAIRMAN MACK: How long is the video?
9 MS. LORTON: You -- you know, I think --
11:28:33 PM 10 MS. MILLER: It's under --
11 MS. LORTON: -- about five minutes.
12 MS. MILLER: Yeah, it's five or seven
13 minutes.
14 CO-CHAIRMAN MACK: What do you-all want?
11:28:35 PM 15 MR. CAMPBELL: Is the point just to show
16 the duration -- the time -- the time --
17 MS. LORTON: No.
18 MR. CAMPBELL: -- when it --
19 MS. MILLER: It's to show two things, the
11:28:36 PM 20 duration and the type of messages that are on. While
21 we're not here today, like I said, you know, making any
22 comments on the actual content of the sign. What -- the
23 point that Mr. Rothfelder's raised, he's trying to say
24 that 4619 be applied, which, once again, Mr. --
11:28:43 PM 25 MR. ROTHFELDER: Well --

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11:28:43 PM 1 MS. MILLER: -- that's not --
2 MR. ROTHFELDER: -- you know --
3 MS. MILLER: But --
4 MR. ROTHFELDER: -- I'll explain what I'm
11:28:44 PM 5 going to say. And that's not what I'm going to say.
6 MS. MILLER: Okay. Well --
7 CO-CHAIRMAN MACK: I guess, the -- the
8 only thing I'm asking to you, they're saying that the
9 sign changes more often than five minutes. And there
11:28:47 PM 10 are some other --
11 MR. ROTHFELDER: And we admit --
12 CO-CHAIRMAN MACK: -- non- --
13 MR. ROTHFELDER: -- that.
14 CO-CHAIRMAN MACK: -- non-religious --
11:28:47 PM 15 MR. ROTHFELDER: Yes.
16 CO-CHAIRMAN MACK: -- messages that are
17 on the --
18 MR. ROTHFELDER: We admit --
19 CO-CHAIRMAN MACK: -- sign.
11:28:47 PM 20 MR. ROTHFELDER: -- that.
21 CO-CHAIRMAN MACK: And if --
22 MR. ROTHFELDER: So I don't --
23 CO-CHAIRMAN MACK: -- you-all agree to --
24 MR. ROTHFELDER: -- see a --
11:28:49 PM 25 CO-CHAIRMAN MACK: -- that --

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11:28:49 PM 1

MR. ROTHFELDER: -- reason --

2

CO-CHAIRMAN MACK: -- then I don't -- I

3

don't think we need to see it. I know you-all --

4

MS. MILLER: Okay.

11:28:49 PM 5

CO-CHAIRMAN MACK: -- worked on it. And

6

when I work on stuff, I like for everybody to see,

7

but...

8

MS. MILLER: No, sir. If there's no

9

disagreement --

11:28:51 PM 10

CO-CHAIRMAN MACK: Okay.

11

MS. MILLER: -- that there's --

12

CO-CHAIRMAN MACK: No disagreement.

13

MS. MILLER: -- a Chevy mentioned --

14

CO-CHAIRMAN MACK: Okay.

11:28:52 PM 15

MS. MILLER: -- on there.

16

CO-CHAIRMAN MACK: Okay.

17

MS. MILLER: And -- and we have pictures

18

showing --

19

CO-CHAIRMAN MACK: All right.

11:28:52 PM 20

MS. MILLER: -- Concordia University

21

is --

22

CO-CHAIRMAN MACK: Right.

23

MS. MILLER: -- done --

24

CO-CHAIRMAN MACK: Right.

11:28:52 PM 25

MR. GARVER: Concord --

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FOR TRINITY LUTHERAN CHURCH
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11:28:52 PM 1 MS. MILLER: We don't need to --
2 MR. GARVER: When you say Concordia, the
3 University --
4 MS. MILLER: That --
11:28:54 PM 5 MR. GARVER: -- that is a religious
6 University.
7 MS. MILLER: Right. Correct. But
8 that -- those classes are being offered -- it's also
9 used to --
11:28:56 PM 10 MR. GARVER: That's a religious school.
11 CO-CHAIRMAN MACK: But I guess, the
12 bottom line, regardless what -- what the message is, is
13 it's changing more than five minutes. And there's a
14 possibility there are other messages outside of the
11:29:00 PM 15 religious meaning.
16 MR. ROTHFELDER: All right. And I'm --
17 I'm passing around some photographs --
18 CO-CHAIRMAN MACK: Okay.
19 MR. ROTHFELDER: -- that have the
11:29:01 PM 20 different types of messages --
21 CO-CHAIRMAN MACK: Okay.
22 MR. ROTHFELDER: -- and -- and --
23 including the one that mentions --
24 CO-CHAIRMAN MACK: Okay.
11:29:03 PM 25 MR. ROTHFELDER: -- Knapp Chevrolet

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11:29:03 PM 1 across the street.
2 CO-CHAIRMAN MACK: And I'm just saying,
3 we have accepted that as the truth and we won't have to
4 go through the video. We've got, like, more appeals
11:29:04 PM 5 tonight. So --
6 MS. MILLER: Okay.
7 CO-CHAIRMAN MACK: -- we try to keep
8 everybody --
9 MS. MILLER: Sure.
11:29:05 PM 10 CO-CHAIRMAN MACK: -- we'll try to get
11 everybody home.
12 MR. SCHINDEWOLF: Can I ask a question?
13 CO-CHAIRMAN MACK: Sure. Go right now.
14 Ask questions.
11:29:06 PM 15 MS. MILLER: Sure.
16 MR. SCHINDEWOLF: How long ago was this
17 sign permitted?
18 MS. MILLER: The -- it was an on-premise
19 sign.
11:29:08 PM 20 MR. SCHINDEWOLF: Was it legal --
21 MS. MILLER: So --
22 MR. SCHINDEWOLF: -- when it was
23 permitted?
24 MS. LORTON: Yes.
11:29:09 PM 25 MS. MILLER: Yeah. And it's still --

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11:29:10 PM 1 it's still a legal sign. What it is is that -- all it
2 is is that the message cannot change. We're not
3 saying --
4 MR. SCHINDEWOLF: Okay.

11:29:12 PM 5 MS. MILLER: -- the sign structure's
6 illegal. And we're not saying that the messaging's
7 illegal.
8 MR. SCHINDEWOLF: Yeah. And the
9 five-minute issue, was that in the code when the sign
10 was built?
11 MS. MILLER: No, sir, that was passed in
12 2009. But the City of Houston Sign Code says that it
13 pertains to all existing and new structures.
14 MR. SCHINDEWOLF: Okay.

11:29:19 PM 15 So it specifically says in the Sign Code
16 that this is a retroactive -- this Ordinance was
17 retroactive?
18 MS. MILLER: Yes, sir. If you look at --
19 it doesn't use the -- that word exactly, but that's the
20 effect of it, 4611(h). Yeah, it says that -- that
21 the -- the following provisions shall apply to all
22 existing and --
23 MR. SILVA: H?
24 MS. MILLER: -- new changeable --
11:29:24 PM 25 MR. SILVA: H?

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11:29:24 PM 1 MS. MILLER: -- message signs.
2 CO-CHAIRMAN MACK: Okay.
3 MS. MILLER: And, you know, the
4 technology's been changing and businesses are more and
11:29:25 PM 5 more using these types of signs. So it's necessary, you
6 know, to answer --
7 MR. GARVER: What page is that on,
8 please?
9 MR. BUCK: 55.
11:29:28 PM 10 MS. DAVIS: 55.
11 MR. GARVER: Huh?
12 CO-CHAIRMAN MACK: 55, yeah.
13 Did I see another hand for a question?
14 MR. BUCK: No, Perry asked one.
11:29:30 PM 15 CO-CHAIRMAN MACK: Okay. All right.
16 MR. ROTHFELDER: All right.
17 CO-CHAIRMAN MACK: Mr. --
18 MR. ROTHFELDER: May I --
19 CO-CHAIRMAN MACK: -- Rothfelder?
11:29:30 PM 20 MR. ROTHFELDER: -- proceed? Good. I
21 appreciate it.
22 I'm going to follow up on what Perry
23 started because I think it's a nice segue into the guts
24 of this page.
11:29:32 PM 25 CO-CHAIRMAN MACK: Okay.

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11:29:32 PM 1

MR. ROTHFELDER: And that is, thank you

2 very much, Perry, they're trying to retroactively
3 enforce a regulation against a legal sign that is
4 grandfathered and non-conforming under the law that

11:29:37 PM 5

5 existed in 2007. They want to make this sign come into
6 conformance with the law that was passed two years
7 later, last summer, in 2009.

8

8 Now, let me back up and explain why
9 that's illegal. And indeed, why it's not what the City
10 Council intended in the first place.

11:29:42 PM 10

11

11 This sign was constructed in 2007 and no
12 permit was issued for it. No sign administration permit
13 was issued for it because the definition of a sign that
14 was in the Sign Code, back in 2007, specifically
15 excluded or exempted this structure from the definition
16 of a sign.

11:29:48 PM 15

17

17 How do we know that? Let's take a look
18 at what Ms. Miller just read to us, Section 4619(c) of
19 the Code, which she incorrectly told you, by the way,
20 dealt only with the abatement of off-premise signs. But
21 we -- when we read it closely, right in the middle of
22 that section, we see that the City Council says that
23 messages that do not contain advertising, including but
24 not limited to political messages, religious or
25 church-related messages, public service, governmental

11:30:00 PM 25

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11:30:01 PM 1 and ideological messages and other copy of a nature that
2 is not commercial advertising, because such structure is
3 not a, quote, sign, closed quote, paren, either
4 on-premise or off-premise, closed paren, as that term is
11:30:06 PM 5 defined for purposes of this chapter and is not subject
6 to regulation under this chapter.

7 So in 2007, when this structure was
8 built, it was not even a sign because it was a church or
9 a religious message on a structure that did not contain
11:30:12 PM 10 commercial advertising. And under the exemption in the
11 Sign Code at the time, there was no -- to use the terms
12 of the exemption, there was no advertising, therefore
13 there was no sign, it was not subject to regulation.

14 That's why Ms. Miller said that they
11:30:17 PM 15 didn't issue a sign permit, they had to go through the
16 regular building and electrical process and that's why
17 we attached to the letter to show you that this
18 structure received all of the permits that were required
19 by the City of Houston, which were simply electrical and
11:30:23 PM 20 building permits. And they're attached to my letter.

21 No sign permit was included, because it
22 wasn't a regulated sign. That was the definition of a
23 sign when the structure was built and when the
24 investment decision was made to purchase this type of
11:30:29 PM 25 sign, that changes automatically, and cost, by the way,

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11:30:30 PM 1 tens of thousands of dollars. When the sign was built
2 in 2007, and when the permission was given in 2007 to
3 use it for this type of automatic changing message,
4 without any limit on how often the message could change,
11:30:35 PM 5 they made the investment decision, paying tens of
6 thousands of dollars, for the opportunity to have a
7 message that would change, it turns out, every ten
8 seconds.

9 Now, what happened next? A -- the
11:30:39 PM 10 permits were issued, like I said, for the legal
11 operation of the sign in 2007. You have them in front
12 of you. Now, by contrast, I'm going to have
13 Rani Huffaker with State Sign, who works with the
14 Sign Administration, pulled these electrical and
11:30:45 PM 15 building permits and is a former member of -- a former
16 President of the Texas Sign Association explain by
17 contrast, when the Sign Administration issues a permit
18 for one of these so-called spectacular signs, the
19 Sign Administration issues a permit that expressly
11:30:52 PM 20 states on the face of the permit, it can only be used to
21 have a static message for every five minutes. It can
22 only change every five minutes, and that's a condition
23 of the permit that is issued for one of these signs by
24 contrast that is subject to regulation. Again, this
11:30:58 PM 25 sign did not have that limitation, because it was

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11:30:59 PM 1 grandfathered in 2007:

2 Now, the City Council repealed this
3 exemption. This is what Ms. Miller -- Miller was
4 alluding to, but she didn't go into too much detail with
11:31:03 PM 5 regard to Susan Luycx's e-mail.

6 The City Council repealed this exemption
7 for non-commercial messages a couple of years ago.

8 MS. LORTON: It's not, Richard. It's not
9 for schools.

11:31:07 PM 10 MR. ROTHFELDER: And it tried to make all
11 signs, whether they had commercial or noncommercial
12 messages, subject to the Houston Sign Code. You may
13 have read or you may have heard, in fact, about the
14 so-called RTM billboard litigation.

11:31:12 PM 15 RTM had actually filed a lawsuit against
16 the City of Houston a couple of years ago under the
17 First Amendment claiming that this exclusion for
18 noncommercial messages violated free rights speech,
19 rights under the first amendment, free speech clause;
11:31:18 PM 20 because of a different treatment for noncommercial
21 messages that were exempt. And commercial messages that
22 were subject to regulation under the Sign Code.

23 The City originally lost a temporary
24 injunction in that case, and following the injunction
11:31:23 PM 25 against the City, they repealed this exemption,

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11:31:24 PM 1 distinguishing between commercial and noncommercial
2 messages. They went on to win the case. And they went
3 on to reinstate this exemption now in the Code.

4 But after the Code had repealed this
11:31:29 PM 5 exemption and all signs, including church and other
6 noncommercial messages were subject to regulation again,
7 the inspector came out and talked to Michael Dorn, the
8 pastor of Trinity Lutheran Church, and said that your
9 sign, which changes more frequently than five minutes,
11:31:35 PM 10 is now subject to regulation. It's no longer exempt.

11 The City Council repealed the exemption. So it's
12 treated like all others.

13 That's when Susan Luycx got involved.
14 Everybody knows Susan Luycx, the former
11:31:41 PM 15 Sign Administrator, Katye Tipton's predecessor, she
16 dealt with you on General Appeals Board matters for five
17 years. And the issue was brought to Susan's attention
18 that the Sign Administration inspector, by mistake, was
19 thinking that the subsequently amended Sign Code, the
11:31:47 PM 20 repeal of the exemption, was going to make this sign
21 subject to regulation.

22 Susan noted that the law is contrary.
23 She noted that that sign was allowed, under the
24 Sign Code, when the definition showed that it was
11:31:52 PM 25 noncommercial and exempt and not subject to regulation.

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11:31:53 PM 1 And, therefore, she cancelled the inspection and the
2 permit and wrote the e-mail that I attached to my paper.

3 Susan said, and I'm quoting now, in her
4 February 12th, 2009, e-mail: The permit was issued
11:31:58 PM 5 using the Sign Code in affect in February of 2007, which
6 is prior to any court case or injunction and prior to
7 the Code change. Therefore, the electronic church sign
8 is considered grandfathered and is not subject to the
9 sign code regulations. I will inform the inspector that
11:32:04 PM 10 the warning notice issued is invalid and must be
11 withdrawn.

12 What happened next? What happened next
13 was that they amended the Sign Code again. Not just
14 once, not just the Sign Code amendment that Susan was
11:32:08 PM 15 talking about in her e-mail, they came back with yet a
16 subsequent change of regulation after this permit was
17 legally allowed. That's the amendment to the Sign Code
18 that was passed last summer, that became effective on
19 September 1, 2009, including the provisions of
11:32:15 PM 20 Section 4611(h), which, by the way -- I wanted to
21 mention this later -- has a specific exemption for
22 changeable message signs for schools. Contrary to what
23 Ms. Miller mentioned. In fact, she gave the example
24 that there's a school right across the street and what
11:32:21 PM 25 would we think if there were changeable messages at

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11:32:22 PM 1 schools.

2 Well, look with me on page 11 of the
3 Ordinance that she provided you. Under Section 6(c) on
4 page 11 of the Ordinance that she provided you. You can
11:32:26 PM 5 see that there is an express exemption for schools,
6 where it says, save and except a changeable message sign
7 located at a school, no changeable message sign -- and
8 it goes on and provides the various regulations.

9 So my point is the new law that went into
11:32:33 PM 10 effect last summer has a specific exemption for schools.
11 The City Council realized that these types of changeable
12 message signs, even if they change more frequently than
13 every five minutes, were not a, quote, health and safety
14 issue for schools. And, indeed, she's right, this
11:32:40 PM 15 church combines with a school. She's right. It falls
16 within the exemption specifically provided in this Sign
17 Code.

18 But here's my more fundamental point.
19 The City Council has amended the Sign Code twice. After
11:32:45 PM 20 the sign in this case was legally authorized to operate
21 without any consideration of how frequently the message
22 could change, the law is that when a property owner,
23 whether they're a sign owner or a homeowner, makes an
24 investment decision based upon the law in effect when he
11:32:52 PM 25 applies for a permit -- and he pays money to adopt that

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11:32:53 PM 1 use or build that structure -- it's unfair -- indeed
2 it's unconstitutional, for the law to subsequently
3 change and compel immediate compliance with the laws
4 that he didn't envision.

11:32:58 PM 5 Now, Ms. Miller says it's simple, it's
6 straight forward because this Ordinance applies to new
7 and existing signs. Well, remember what's a sign? Is a
8 sign what is identified and defined as of September 1,
9 2009, which, for the first time, includes the words,
10 informed, as part of the definition?

11 Or is it a sign defined as something that
12 advertises, that is specifically exempt under the
13 Sign Code like it read in 2007, when this structure was
14 allowed and legally permitted under building and
15 electrical codes.

11:33:10 PM 16 We come back to the grandfathering
17 nonconforming use. The definition of sign is determined
18 in 2007, when the structure was allowed. A subsequent
19 change in the definition of sign to try to take it out
20 of these exemptions is inapplicable, it's grandfathered,
21 it's permitted just like Susan Luycx said in her
22 February, 2009, e-mail to you. Now, why did Susan Luycx
23 say that? She says it because she knows what the law
24 is.

11:33:21 PM 25 Now, I'm going to pass around state law

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11:33:22 PM 1 on issuance of permits. And I want to read from this
2 state law --

3 Here's another copy, Leslie.

4 MS. DAVIDSON: Okay.

11:33:25 PM 5 MR. ROTHFELDER: -- this is 245.002 of
6 the Local Government Code that addresses the law that
7 one must apply to when they submit a permit and then the
8 City, county or State changes the law after the permit
9 application is -- has been submitted.

11:33:31 PM 10 You can see under (a), each regulatory
11 agency -- and I submit, that includes the
12 Sign Administration -- shall consider the approval,
13 disapproval or conditional approval of an application
14 for a permit solely on the basis of any orders,
11:33:35 PM 15 regulations or ordinances or other properly adopted
16 requirements in effect at the time the original
17 application for the permit is filed for review for any
18 purpose.

19 Not when they amend the Sign Code two
11:33:40 PM 20 years down the road after you've had your sign up and
21 operational and after you've made your investment
22 decision.

23 It goes on, Section (b) that I've cited
24 below that: If a series of permits is required for a
11:33:46 PM 25 project, the orders, regulations, ordinances or other

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11:33:46 PM 1 properly adopted requirements in effect at the time the
2 original application for the first permit in that series
3 shall be filed is the sole basis for consideration.

4 So this State law confirms what
11:33:51 PM 5 Susan Luycx knew to be the law, as always confirmed by
6 the courts around the country.

7 Now, I'm going to pass out some
8 highlighted cases on this issue of nonconforming
9 grandfathered use because it doesn't apply just to
11:33:57 PM 10 signs. It applies to buildings and homes.

11 And the Courts have what we call black
12 letter law on this issue. It's not new, it's not novel.
13 The Courts say nonconforming use is one that lawfully
14 existed before the effective date of a zoning
11:34:04 PM 15 restriction and that is allowed to continue to exist in
16 nonconformance with the restriction. That's exactly
17 what we had here.

18 This structure was not considered a sign.
19 It was exempt because it had religious and church
11:34:08 PM 20 messages. The attempt two years later to add the word,
21 inform, as part of the regulated message does not affect
22 the structure, instead it's grandfathered and it's
23 permitted.

24 Now, those are the legal reasons that
11:34:14 PM 25 this sign does not have to comply with the five-minute

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11:34:15 PM 1 static requirement. This sign, instead, can change at a
2 pace that is safe. And Pastor Dorn has determined that
3 it's safe to do so every ten seconds.

4 Indeed, the City Council determined that
11:34:19 PM 5 it was safe for schools to have these so-called
6 changeable message signs that change every ten seconds
7 when they passed the Sign Code amendment last summer and
8 included the specific exemption from schools -- for
9 schools in that amendment. So there's no health or
11:34:24 PM 10 safety issue here. A 10-second static time is what the
11 City Council determined was safe and that's what we
12 observe.

13 But I want to ask Pastor Dorn to talk a
14 little bit about the fairness and equity. Because this
11:34:29 PM 15 goes belong -- the -- far beyond legal issues. This
16 goes to a question of the congregation getting together
17 to contribute money to buy a specific type of sign that
18 has been represented to them by the City as exempt so
19 they don't have to comply with that five-minute static
11:34:35 PM 20 time.

21 So instead, they could comply as the City
22 told them with a 10-second static time. And how any
23 changes in the use of that sign, two and a half years
24 later, is going to be harmful for the church, its
11:34:40 PM 25 congregation, the local community and the good work that

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11:34:41 PM 1 it does.

2 Rani Huffaker was the contractor that
3 worked with the Sign Administration to get the permit
4 originally to work with Susan Luycx when the
11:34:44 PM 5 Sign Administration made the mistake about a year ago in
6 attempting to enforce the Sign Code against the sign.
7 And she also worked with Texas Sign Association and the
8 Greater Houston Sign Association last summer when those
9 amendments were passed. And she's told me she needs to
11:34:49 PM 10 be out of here at 6:30, because she has to get to her
11 own church for a photo system for their congregational
12 roster. So I'd ask Rani Huffaker, at this time, to
13 speak about those issues to the Board.

14 MS. HUFFAKER: Okay. At the time when I
11:34:53 PM 15 was working, we -- we did go through a commitment and it
16 took the church about a year to -- to get their funds
17 together. We had several meetings on how they would be
18 able to use the sign.

19 The sign is built. It -- it's in two
11:34:57 PM 20 single-faced modules, one of which will address the --
21 the school issues, the parents when they come in the
22 driveway, their specific messages to the people
23 attending the church, early childhood ECP-type thing.
24 That's very, very important to a church on the edge of
11:35:03 PM 25 downtown, which is in a vibrant regrowth area.

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11:35:04 PM 1 And that is part of the intent when we
2 did this sign. We wanted a sign that would tell people
3 where this church was going, not where it had been.

4 They were getting a -- a -- a -- a congregation up in
11:35:08 PM 5 age. This was very important to the -- the -- the -- I
6 guess, you know, how far this church was going to be
7 able to exist and continue to grow.

8 The school is a huge, huge advantage for
9 growth and to bring in young people. So we made it --
11:35:11 PM 10 we made certain that they would be able to address
11 the -- the school-aged parents dropping children off on
12 the parking lot side versus maybe older members or -- or
13 people who would have -- need to know messages about the
14 school. They -- they were more church-related.

11:35:16 PM 15 So this was very important. We went
16 in -- in and out of Committee for almost a year while
17 they got their funds together and really understood how
18 they would be able to use this sign.

19 And, at the time, a permit was not
11:35:20 PM 20 required for the sign. We only had to pull electrical
21 and they were exempt for the five-minute hold time. In
22 fact, no hold time was presented.

23 Just for your record, TXDOT recommends an
24 8-second hold time within the State of Texas. They find
11:35:24 PM 25 that -- that to be safe.

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11:35:25 PM 1

MR. ROTHFELDER: Rani, let me inter --

2 interrupt you for just a second. I want to pass out, in

3 fact, the definition of a sign. It's at the bottom of

4 the page that I'm giving you. And you can see, when the

11:35:29 PM 5

Sign Code was amended last summer, the red underlined is

6 the new part that was added to the definition. That

7 wasn't contained in the definition of sign when Rani

8 talked to the Sign Administration two and a half years

9 ago and obtained the electrical permits for the

11:35:35 PM 10

structure.

11

MS. HUFFAKER: So I -- I assured -- and

12 this was not the first sign I had done with -- with this

13 congregation. My dad went to school there and I had

14 done signs. We actually donated signs a couple of years

11:35:39 PM 15

15 prior to that. So I was really excited they wanted to

16 buy one this time.

17

So I -- so I went to -- I went to all of

18 the meetings. And so about two years after the sign was

19 installed, I guess, one of the inspectors had come by

11:35:44 PM 20

20 wanting them -- with a violation notice that they were

21 not meeting the 5-second [sic] hold time. And they

22 called and I said: Don't -- please, don't do anything.

23 Let me call Susan and find out what's going on.

24

Because in -- in my understanding, it was

11:35:49 PM 25

25 going to be on new -- new-permitted signs or

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11:35:50 PM 1 grandfathered signs that were changed in structure --
2 in -- in nature. If we were going to add square footage
3 or reduce square footage, that they would have to come
4 into compliance. I -- I never really understood that

11:35:53 PM 5 there would be any retroactivity at all on existing
6 signage. And they have not made any changes or
7 adaptations or anything to the structure at -- it's --
8 it remains as it was installed in 2007.

9 So I asked him to please not sign that,
11:35:58 PM 10 and let me call Susan just to see what was going on.
11 And that is when she sent the -- the e-mail to me saying
12 that she would ask them not to come back. And all --
13 and was kind enough to send something in writing so that
14 they could have it at the church, should another
11:36:03 PM 15 inspector stop by.

16 So beyond that, I -- I really -- it kind
17 of just went away. I really didn't hear about it much
18 anymore until -- until, I guess, I don't know when --
19 when the -- another inspector came by. And I suggested
11:36:06 PM 20 that they call Richard because, at that point, Susan was
21 no longer there and I really didn't know what to tell
22 them.

23 CO-CHAIRMAN MACK: Okay.

24 MR. ROTHFELDER: Okay.

11:36:09 PM 25 Thanks, Rani.

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11:36:10 PM 1 And, now, if I could ask Pastor Dorn to
2 address some these issues.

3 PASTOR DORN: Sure.

4 I appreciate the opportunity to just
11:36:11 PM 5 share a few words with you about the sign. This sign is
6 an important part of our ministry and the support to the
7 community we serve. It does far more than display
8 worship times for the church. It also announces events,
9 concerts, happenings of interest to the people that live
11:36:16 PM 10 in the neighborhoods near the downtown core. And it
11 displays messages of hope and bible passages and things
12 like that to encourage people who pass by.

13 It also reminds the -- the passenger-bys
14 of how thankful we should be to God for the prosperous
11:36:21 PM 15 city in which we live and -- and the country we call
16 ourselves citizens of, the United States.

17 But I want to share, specifically, three
18 examples of how this sign in its current use is of
19 benefit to the community. First of all, Trinity has a
11:36:26 PM 20 blood donor clinic four times a year, and we advertise
21 that on the sign. We were just recognized by the
22 Gulf Coast Regional Blood Association for -- or
23 Blood Center for the support that we give them.
24 Trinity, based on its size, had the most donations for
11:36:32 PM 25 2009 for churches. In giving the reward, the Blood

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11:36:33 PM 1 Center recognized the sign as a key factor in the number
2 of donations received.

3 Each year at -- at Halloween, we have a
4 Trunk-N-Treats event. And we advertise that to provide
11:36:37 PM 5 a safe place for parents and their children to come at
6 that time of the year. And the last couple of years,
7 we've -- we've got about 1,500 to 2,000 present there.
8 Much of that traffic is directly due to the sign and --
9 and how we use it to advertise that.

11:36:44 PM 10 And the other example that I want to
11 share is -- is about our service to the homeless
12 downtown. They count on, of all things, the time and
13 temperature on the display, as -- as they -- as they
14 come to the church. Because -- and they come to church
11:36:49 PM 15 every day to receive sack lunches. We give out over
16 17,000 sack lunches per year to the homeless.

17 And we also advertise on that sign to
18 them for special meals that we offer certain times of
19 the year, where they can come into the church and sit
11:36:54 PM 20 down for a restaurant-served-style meal that not only
21 provides them with special dignity for who they are as
22 people and children of God but also providing them with
23 something warm to eat. Those are just a few examples of
24 the benefits of the sign to the community.

11:36:59 PM 25 I share this with you because a great

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11:36:59 PM 1 deal of thought and planning went into how that sign was
2 going to be used. A committee of our congregation did
3 spend a lot of time thinking and planning for it, about
4 its size, its function, its location. And we were
11:37:03 PM 5 assured that the display could be used without
6 limitation to the frequency of the change of the sign --
7 of -- of the message on the sign.

8 That's a crucial point that I want to
9 make in -- in -- in the planning process that we went
11:37:07 PM 10 through for this sign because it dictated how big the --
11 the digital portion of the sign would be. Our plan was
12 to use it every -- approximately ten seconds. Had we
13 been told that we could only change it every five
14 minutes, that would significantly have altered the
11:37:12 PM 15 construction of the sign and the size of the digital
16 marquee.

17 And it was based on that kind of use and
18 what we had told the people that we were going to do
19 with it that our members contributed over -- about
11:37:16 PM 20 \$70,000 for this sign. And so that's where I, along
21 with the members of our congregation, struggle with the
22 notion that the City could drastically change what has
23 already been approved and granted to us.

24 The sign's used with a great deal of love
11:37:20 PM 25 and care for the people of our community. The frequency

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11:37:22 PM 1 of the change and the animation used on it are very
2 conservative. They're not a distraction to the drivers
3 that cross the intersection of Washington and Houston.
4 And I say that as the senior pastor of a church with a
11:37:26 PM 5 school where we have property on both sides of
6 Washington Avenue. And there has never been a concern,
7 on my part or on the part of our teachers or parents
8 that their children are endangered because of the sign,
9 which is very close to where the pedestrians are
11:37:31 PM 10 crossing.

11 Also, I -- in the time that that sign has
12 been in place, there has never been a traffic incident
13 or accident attributed to the use of this sign.

14 I believe that requiring Trinity to
11:37:35 PM 15 conform to the current Sign Ordinance restricts, among
16 others things -- restricting, among other things, the
17 message changing of every five minutes would negatively
18 impact our ministry at this stage. People travel past
19 us at a much faster rate than five minutes and they
11:37:40 PM 20 would miss out on many of the messages that would be
21 important and beneficial to them.

22 Basically, the Ordinance would render our
23 sign virtually ineffective for the intended use in its
24 design. Therefore, I humbly request that you would
11:37:45 PM 25 honor what was originally granted to us in the

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11:37:46 PM 1 permitting progress and allow us to continue to bless so
2 many people through this tool for ministry.

3 CO-CHAIRMAN MACK: Thank you.

4 All right.

11:37:48 PM 5 MR. ROTHFELDER: Let me just conclude.

6 CO-CHAIRMAN MACK: Okay.

7 MR. ROTHFELDER: By -- by wrapping up
8 and -- and reiterating two points.

9 As you can see by the photographs that
11:37:51 PM 10 are in front of you, this is the Lutheran church and
11 school. So there's two fundamental points here.

12 Schools are expressly exempt from regulation for these
13 so-called changeable message signs.

14 Schools can have changeable message signs
11:37:57 PM 15 that change more frequently than every five minutes.

16 Schools, under the provisions that we've been looking
17 at, again, on page 11 6(b) and (c) save and except for a
18 changeable message sign located at a school. Schools
19 are exempt.

11:38:02 PM 20 Under the law that they are now trying to
21 enforce, retroactively, to get to my second point, even
22 if we didn't have a school that was subject to exemption
23 under the new law, we have a church that is not defined
24 as being subject to regulation even as a sign at the
11:38:08 PM 25 time it was permitted.

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11:38:09 PM 1

So the subsequent attempt to
2 retroactively apply a law to a grandfathered
3 nonconforming structure violates State law and is not a
4 proper construction of the Sign Code because this is not
5 a regulated sign.

11:38:13 PM 5

6 And finally, equity and fairness, along
7 with the law, prohibits the Board under these unique
8 circumstances from applying that law retroactively in
9 this unfair fashion.

11:38:18 PM 10

11 The church made an investment decision
12 based upon the law and the representations enforced when
13 they paid over \$70,000. They won't get the opportunity
14 to use those funds in the manner that they intended to
15 have the type of messages displayed that, I think
16 everybody has to admit, are safe and helpful to the
17 community.

11:38:24 PM 15

18 So we ask this Board to overturn the
19 warning notice and allow this sign to continue to be
20 operated exempt, both as a school sign and as a
21 grandfathered church sign.

11:38:29 PM 20

22 *CO-CHAIRMAN MACK:* Okay. Thank you.

23 Questions from the Board?

24 *MS. MILLER:* Oh, I'm sorry. May I?

11:38:32 PM 25

CO-CHAIRMAN MACK: Let me -- let me do --
make a run here and then we'll come back.

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11:38:33 PM 1 Questions?
2 MS. DAVIDSON: I have a question. So the
3 sign has a different message every ten minutes or is it
4 the --
11:38:35 PM 5 MR. CAMPBELL: Ten seconds.
6 MR. SILVA: Ten seconds.
7 MS. DAVIDSON: -- every ten seconds --
8 and so, you allow -- how many different messages do you
9 get within the five minutes, for instance?
11:38:37 PM 10 PASTOR DORN: Within five minutes, we --
11 there's usually about four to five different messages,
12 so those would turn over roughly, those five messages,
13 about every --
14 MS. DAVIDSON: Okay.
11:38:40 PM 15 PASTOR DORN: -- minute.
16 MS. DAVIDSON: Minute?
17 PASTOR DORN: -- or -- or so.
18 The part of the key with the marquee is
19 that to get the full message there, it has to scroll a
11:38:43 PM 20 bit to get the last part of the message here.
21 MS. DAVIDSON: Uh-huh.
22 PASTOR DORN: So that -- that --
23 MS. DAVIDSON: Yeah.
24 PASTOR DORN: -- that it's all there.
11:38:44 PM 25 Otherwise, we would have gone for a bigger digital

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11:38:45 PM 1 portion so that the whole message could be on there.
2 There was a way at that time that we would be able to
3 save some money.
4 MS. DAVIDSON: Okay.

11:38:47 PM 5 CO-CHAIRMAN MACK: Any other questions?
6 (No response.)
7 CO-CHAIRMAN MACK: All right.
8 Ms. Miller?
9 MS. MILLER: Thank you.

11:38:48 PM 10 I'd just like to respond real quickly to
11 a few points that were made by Mr. Rothfelder. If
12 you-all could, please, look at Section 245.002. The
13 Issuance of Local Permits, the statute -- I'm sorry,
14 that --

11:38:54 PM 15 CO-CHAIRMAN MACK: Oh, okay.
16 MS. MILLER: -- Mr. Rothfelder handed --
17 CO-CHAIRMAN MACK: All right.
18 MS. MILLER: -- out with the highlighted
19 portion.

11:38:55 PM 20 CO-CHAIRMAN MACK: All right.
21 MS. MILLER: It looks like this
22 (indicating).
23 MR. SILVA: 245.0 --
24 MS. MILLER: Yes, sir.

11:38:57 PM 25 MR. SILVA: -- page 295?

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11:38:57 PM 1 MS. MILLER: Yes, sir.

2 This two -- section -- Section 245.002
3 does not apply to the situation that's at issue today.

4 This, specifically, addresses the issue of an

11:39:00 PM 5 application for a -- a permit solely on the basis of --

6 in certain situations -- we're not talking about an

7 application for a permit. What this law addresses is

8 situations where someone applies for a permit, and while

9 they've applied for the permit, the law changes

11:39:07 PM 10 midstream, and all of a sudden, the agency will come

11 back and say: No, we can't give you a permit because

12 you no longer complied, even though their application

13 was pending.

14 Once again, this does not involve a

11:39:12 PM 15 permit. We are not asking that the sign be permitted.

16 We're not making a condition of receiving a permit. The

17 fact that the message can only change or not change once

18 every five minutes. So this does not apply at all to

19 the situation, number one.

11:39:18 PM 20 Number two, if you want to argue that,

21 then, there's also exemptions to Section 245.002, and

22 this could -- and one of the exemptions is it does not

23 apply to a situation pertaining to land use. Once

24 again, if you're going to argue this, then there is a

11:39:23 PM 25 land use provision and the land use goes to request for

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11:39:24 PM 1 using the sign on the land. But, once again, this is
2 not a permit. This -- there is no permit applying to
3 this sign, other than electrical, but which has to do
4 with electricity, but this is not a sign permit. This
11:39:29 PM 5 does not apply to this situation.

6 Next, if you could please turn back to
7 page 11 of the Ordinance that I gave you, tabbed
8 2009-655. Mr. Rothfelder turned to this section of,
9 once again, it's page 11, number 6, to say that schools
11:39:35 PM 10 are exempt from the changeable message provision.

11 If you would please, when you have a
12 second, take the time to read that closely. This falls
13 under additional restrictions for changeable message
14 signs. What that means is that -- what they're saying
11:39:40 PM 15 is this deals with the placement of signs. There is no
16 exemption for schools, as far as how quickly can the
17 sign change. At schools, once again, just like any
18 other sign, schools have to abide by the City of Houston
19 Code of Ordinance, the message on the school board
11:39:46 PM 20 cannot change more than once every five minutes.

21 If the message at the school scrolls and
22 changes more than once every five minutes, also the
23 school does receive the warning notice and citation a
24 sign -- from Sign Administration. I know that you-all
11:39:51 PM 25 are tired and there's other things going on, but we have

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11:39:52 PM 1 four members today from Houston -- City of Houston
2 Sign Administration. And just let me quickly ask
3 Lisa Lorton.

4 Do we issue warning notices and citations
11:39:55 PM 5 at schools that have the changeable message going more
6 than every five minutes?

7 MS: LORTON: Yes, we do.

8 MS. MILLER: So once again, this section
9 only deals with the placement. And if you look at the
11:39:59 PM 10 language -- because schools are located in local
11 streets. So while we don't want these changeable
12 message signs popping up all over private neighborhoods,
13 local streets, these changeable messages -- of course,
14 the signs will be in neighborhoods because that's where
11:40:03 PM 15 schools are. But, once again, this is placement, not
16 the duration and frequency of the sign. So this --
17 also, this Ordinance does apply to schools as far as
18 changeable messages. So that's the second point.

19 The third point is this goes back to,
11:40:08 PM 20 once again, Mr. Rothfelder stated that it was the intent
21 to have schools exempted from the time code and the
22 request for how often the changeable message. Once
23 again, in line with health and safety concerns, schools
24 are not exempted. I will pass these out, if you'd like
11:40:14 PM 25 to pass them around. This is just a brief memo written

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11:40:14 PM 1 June 19th, before the latest amendment that was made to
2 the Ordinance. And if you turn to page 2 --
3 MR. CAMPBELL: Just let us pass out
4 these.

11:40:18 PM 5 MS. MILLER: Okay.

6 We have --

7 MS. DAVIDSON: Did you get one?

8 MS. MILLER: Just real fast, bullet
9 point, the last sentence: The task force has considered
11:40:21 PM 10 and does not recommend this exemption for schools and
11 churches. Once again, schools and churches are not
12 exempted.

13 Also, Mr. Rothfelder passed out some --
14 something -- a paper regarding to zoning. Once again,
11:40:26 PM 15 this has nothing to do with signs. City of Houston does
16 not even have zoning. So this provision doesn't even
17 apply to the City of Houston. Once again, it does not
18 apply to the City of Houston.

19 The City of Houston understands that it's
11:40:31 PM 20 important for Trinity Church and School to have its
21 sign. City of Houston is not saying: Don't have a
22 sign. City of Houston is not saying: Don't run your
23 messages. What the City of Houston is saying is please,
24 do it safely.

11:40:35 PM 25 And when the church talks about, you

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11:40:36 PM 1 know, we have no accidents, it's just one sign. I'd
2 like to ask you-all to please think about. Think of
3 Washington Avenue. We're not just talking about a
4 single sign. We are talking about a series of signs up
11:40:41 PM 5 and down Washington Avenue. For the health and safety
6 of people driving on that street, pedestrians and
7 children, that's what we're looking at. We are just
8 asking that the frequency of the message be changed.
9 That is it.

11:40:46 PM 10 And finally, once last point. The e-mail
11 of Susan Luycx keeps being brought up. Once again, the
12 e-mail from Susan Luycx is in February of 2009. The
13 City of Houston passed it's Ordinance in July of 2009.
14 So Susan Luycx could not be talking about a change made
11:40:50 PM 15 months and months later in that e-mail. It's a
16 completely different issue. So I would say just like to
17 point that out to you-all.

18 And I thank you all very much for your
19 time.

11:40:55 PM 20 CO-CHAIRMAN MACK: Okay.

21 Mr. Garver?

22 MR. GARVER: I'd like to ask the City:
23 Are -- are there no signs in the City of Houston that
24 are changing more often than five minutes that are
11:40:57 PM 25 permitted?

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11:40:57 PM 1 MS. MILLER: No, sir. And that's with
2 this 4611(h). It says: All existing and new signs.
3 So, no, this is being across the board in the City of
4 Houston.

11:40:59 PM 5 If Sign Administration observes or is
6 notified of any sign that's making this change, because,
7 as you're aware, technology advances more and more
8 people are getting these signs, this applies to even
9 across the board for health and safety purposes, period.
11:41:05 PM 10 And if --

11 MR. GARVER: Church, school, private --

12 MS. MILLER: Yes, sir.

13 MR. GARVER: -- business, they'd all get
14 a --

11:41:06 PM 15 MS. MILLER: Absolutely.

16 MR. GARVER: -- citation?

17 MS. MILLER: Yes. And we're not --
18 absolutely, sir, that's a health and safety issue.
19 Yes, sir.

11:41:08 PM 20 MR. SCHINDEWOLF: How about in the ET --
21 ETJ.

22 MS. LORTON: We don't allow on-premise
23 signs on ETJ.

24 MR. SCHINDEWOLF: Okay.

11:41:10 PM 25 MS. MILLER: It's not in our

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11:41:10 PM 1 jurisdiction.

2 MR. SCHINDEWOLF: Okay.

3 CO-CHAIRMAN MACK: Another question from

4 the Board?

11:41:11 PM 5 MR. CAMPBELL: Just one question. I

6 guess church, is that considered business purposes under

7 the City law on the -- on the -- under the City, church

8 activities?

9 MS. MILLER: Sir, it's actually for

11:41:14 PM 10 everything, whether or not it's business purposes.

11 We're not regulating the message. What we're just

12 looking at is the frequency and the duration --

13 MR. CAMPBELL: No, I'm -- I'm referring

14 to the -- I guess the chapter on page 11, where it talks

11:41:19 PM 15 about the classification of signs. The -- that first

16 statement on top, it says: For the purpose of this

17 chapter and the regulation, the provisions: A sign must

18 first be classified in one of those two categories. You

19 know, on-premise --

11:41:24 PM 20 MS: LORTON: Right.

21 MR. CAMPBELL: -- or off-premise.

22 MS. MILLER: Yes, sir.

23 MR. CAMPBELL: Okay.

24 MS. MILLER: And this is an on-premise.

11:41:25 PM 25 MR. CAMPBELL: Right.

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11:41:25 PM 1 An on-premise, as I read the definition,
2 to me, it seems that it must be for business purposes,
3 not -- that's okay -- that's why I asked that question.
4 If a school --

11:41:26 PM 5 MS. DAVIDSON: It's --

6 MR. CAMPBELL: -- if a school is going to
7 be classified as on-premise, then the -- it'd have to
8 be -- being used for business purposes.

9 MS. MILLER: Well --

11:41:28 PM 10 MR. CAMPBELL: And that's my question for
11 you.

12 MS. MILLER: Okay. Well, one of the
13 changes -- and that's a good question -- one of the
14 changes that were made in -- what we're talking about,
15 the 2009 changes --

16 MR. CAMPBELL: Uh-huh.

17 MS. MILLER: -- was the definition of the
18 word, sign. And now it's also anything that informs any
19 information.

11:41:33 PM 20 MR. CAMPBELL: Right.

21 MS. MILLER: So we're beyond just goods
22 and purposes.

23 MR. CAMPBELL: And again, I'm not arguing
24 the --

11:41:34 PM 25 MS. MILLER: Yes.

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11:41:34 PM 1

MR. CAMPBELL: -- definition of sign.

2

MS. MILLER: Sure.

3

MR. CAMPBELL: I'm arguing the definition

4

of a use of sign when it applies to this chapter.

11:41:36 PM 5

That's -- that's the question. Even though it may

6

classify in the definition of a sign, because of how

7

it's used, does this chapter pertain to it? That's my

8

question. If it's not used for business purposes and

9

it's on premise, then does the City still say this

11:41:42 PM 10

chapter, even though it was --

11

MS. MILLER: Sure --

12

MR. CAMPBELL: -- the lighter side of --

13

MS. MILLER: Lisa would --

14

MR. CAMPBELL: -- the feather.

11:41:42 PM 15

MS. MILLER: -- like to answer that.

16

MS. LORTON: On the -- on -- in 4603, it

17

says: On-premise sign shall mean any sign identifying,

18

advertising or providing information about the business,

19

purpose, activity, goods, products or services.

11:41:46 PM 20

MR. CAMPBELL: Right.

21

MS. LORTON: So you have to be able to go

22

to that premise --

23

MR. CAMPBELL: Right.

24

MS. LORTON: -- and get something.

11:41:48 PM 25

MR. CAMPBELL: Right.

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11:41:48 PM 1 MS. LORTON: And that's what's regarded
2 as an on --
3
4 MR. CAMPBELL: And at the end, it says:
5 When used for a -- business purposes.
11:41:50 PM 5 MS: LORTON: Purpose.
6 MR. CAMPBELL: Right.
7 MS. LORTON: Right.
8 MR. CAMPBELL: Okay.
9 MS. MILLER: So that includes, also,
11:41:50 PM 10 activities --
11 MS: LORTON: We --
12 CO-CHAIRMAN MACK: Okay.
13 MS. MILLER: And --
14 CO-CHAIRMAN MACK: Perry? Perry.
11:41:52 PM 15 MR. SCHINDEWOLF: Are -- are we saying
16 that when the -- the -- I don't even know whether to
17 call it a sign or a thing -- when -- when the thing was
18 built, it was legal. And now we have passed a
19 retroactive -- retrofit Ordinance that now makes it
11:41:55 PM 20 illegal.
21 MS. LORTON: No.
22 MR. SCHINDEWOLF: Is that what we're
23 saying?
24 MS. MILLER: No, sir. The sign itself is
11:41:57 PM 25 still legal. It's just the frequency of the message

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11:41:58 PM 1 changing. That is it.

2 MR. SCHINDEWOLF: Well, was the message
3 changing when it was built?

4 MS. MILLER: The -- we have changed the
11:42:00 PM 5 frequency since --

6 MR. SCHINDEWOLF: You've changed --

7 MS. MILLER: -- when the --

8 MR. SCHINDEWOLF: That --

9 MS. MILLER: -- sign went up.

11:42:00 PM 10 MR. SCHINDEWOLF: -- ordinance has
11 changed since it was built?

12 MS. MILLER: Yes.

13 MR. SCHINDEWOLF: Okay.

14 MS. MILLER: And -- and -- and that's
11:42:01 PM 15 what the Ordinance states, it addresses that issue.

16 MR. SCHINDEWOLF: Yeah.

17 CO-CHAIRMAN MACK: Leslie?

18 MS. DAVIDSON: I was just going to ask
19 you, if the sign isn't under your jurisdiction, because
11:42:05 PM 20 it was exempt at the time it was built, then why is it
21 under your jurisdiction now?

22 MS. MILLER: No, the sign's under our
23 jurisdiction. The response to -- someone had asked a
24 question are signs in the extraterritorial jurisdiction --

11:42:09 PM 25 MR. CAMPBELL: No.

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11:42:09 PM 1

MS. DAVIDSON: I guess I didn't mean
2 that. I meant --

3

MS. MILLER: Oh, okay.

4

MS. DAVIDSON: -- under your -- under --

11:42:10 PM 5

okay --

6

MR. ROTHFELDER: In 2007, you said it was
7 not subject to your jurisdiction, it was exempt. And
8 you didn't issue a permit for it, accordingly.

9

11:42:14 PM 10

MS. MILLER: Right. And we're still not,
11 for any sign, any church sign or any sign that existed
12 prior to the Ordinance change in 2009. This church will
13 never be required to get a permit, okay, for on premise.
14 New signs, places that are -- churches that are trying
15 to build new signs, following that date, they are
16 required to get a permit.

17

The only thing is this sign now -- the
18 definition of what a sign is has changed. And that
19 definition now includes something that informs. So that
20 includes churches and schools now. And it's because the
21 definition of a sign has changed, since 2009, the City
22 of Houston Sign Administration regulates all these
23 signs.

11:42:26 PM 20

21

22

23

24

And it would -- once again, the example
25 that I gave earlier, any time the City of Houston will
put in a new Ordinance certain requirements. For

11:42:30 PM 25

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:42:31 PM 1 example, we have a Convenience Store Ordinance and
2 that's new that's been passed. It used to be, you know,
3 you'd drive up to these convenience stores and they have
4 all types of advertisements, plastered to the windows of
11:42:34 PM 5 the convenience store. There's now a City of Houston
6 Convenience Store Ordinance that has been passed for
7 safety purposes so that people can see what's going on
8 in these convenience stores that now require that the
9 windows not have all these advertisements and that you
11:42:40 PM 10 can be -- see through the window.

11 So all those convenience stores, even
12 though they were built or in existence before we passed
13 the Convenience Store Ordinance, they are now ordered to
14 comply with the new Ordinance. And any of these
11:42:44 PM 15 convenience stores have to remove any advertisements or
16 things, you know, that block and -- and I don't know
17 word for word, I don't want to misquote that or mislead
18 you, but that's the general gist of that Ordinance.

19 CO-CHAIRMAN MACK: Okay. Okay. I think
11:42:48 PM 20 we've heard a lot about signs.

21 MR. ROTHFELDER: Or -- or not signs.

22 CO-CHAIRMAN MACK: I -- I mean, I -- I
23 think we've actually heard both sides and I think we --
24 we --

11:42:51 PM 25 MR. ROTHFELDER: Well, could I just add

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:42:51 PM 1 to what Edward said? Because I -- he made a good point
2 and, you know, frankly, the -- when he put -- picked up
3 on that business purposes that's under the definition of
4 on-premise sign, I didn't really catch that. But I
11:42:55 PM 5 think that's a real good point.

6 CO-CHAIRMAN MACK: All right.

7 MR. ROTHFELDER: The --

8 CO-CHAIRMAN MACK: Okay.

9 MR. ROTHFELDER: -- definition of an
11:42:56 PM 10 on-premise sign concludes with the statement that it has
11 to be maintained when such premises is used for business
12 purposes.

13 CO-CHAIRMAN MACK: Okay.

14 MR. ROTHFELDER: The Code defines,
11:42:59 PM 15 earlier under Section 4602, what business purposes are.

16 CO-CHAIRMAN MACK: I'm going to --

17 MR. ROTHFELDER: Should we --

18 CO-CHAIRMAN MACK: -- ask you not to read
19 it.

11:43:02 PM 20 MR. ROTHFELDER: Okay.

21 CO-CHAIRMAN MACK: I think -- I think we
22 got it.

23 MR. ROTHFELDER: But we all --

24 CO-CHAIRMAN MACK: We understand --

11:43:02 PM 25 MR. ROTHFELDER: -- know --

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:43:03 PM 1

CO-CHAIRMAN MACK: We understand --

2

MR. ROTHFELDER: -- that this sign is

3 not --

4

CO-CHAIRMAN MACK: Okay.

11:43:03 PM 5

MR. ROTHFELDER: -- this church, by

6 definition, it's not commercial. It's a noncommercial

7 use and that's why it was originally exempt, that's why

8 it was outside the jurisdiction of the Sign Code in --

9

CO-CHAIRMAN MACK: We --

11:43:06 PM 10

MR. ROTHFELDER: -- 2007.

11

CO-CHAIRMAN MACK: We think we understand

12 what --

13

MR. ROTHFELDER: All right.

14

CO-CHAIRMAN MACK: -- you're saying. I

11:43:07 PM 15

15 think what Ed -- that whether this Board agrees or

16 disagrees, I don't know, but I think we'll find out in

17 just a moment.

18

I think it's at the point where we've got

19 to take this to a vote. If there are no other questions

11:43:12 PM 20

20 from the Board, I'd ask that you make a Motion, please.

21

(Mr. Campbell raised his hand.)

22

CO-CHAIRMAN MACK: Okay.

23

MR. CAMPBELL: I move that the church --

24

24 the position is correct, that they are not under no

11:43:15 PM 25

25 Ordinance of the Sign Commission.

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:43:15 PM 1

CO-CHAIRMAN MACK: Is there a second?

2

MS. DAVIDSON: I second it.

3

MR. SCHINDEWOLF: Second.

4

CO-CHAIRMAN MACK: Okay. It's been moved

11:43:17 PM 5

and seconded that the appeal be granted. Those in
6 favor?

7

(Mr. Schindewolf, Mr. Campbell and

8

Ms. Davidson raised their hands.)

9

CO-CHAIRMAN MACK: Those opposed?

11:43:19 PM 10

(Mr. Buck, Ms. Davis, Mr. Silva and

11

Mr. Garver raised their hands.)

12

CO-CHAIRMAN MACK: Okay. The appeal has

13

been denied.

14

MR. ROTHFELDER: On the record, could we

11:43:21 PM 15

just go around and indicate, by person, the yeas and
16 nays, please?

17

CO-CHAIRMAN MACK: We didn't do that for

18

the last guy, I -- I don't think we can. I think we'll

19

just state that it was a three to four vote and it went

11:43:24 PM 20

the wrong way for you.

21

MR. ROTHFELDER: Okay. Well --

22

CO-CHAIRMAN MACK: Sorry.

23

MR. ROTHFELDER: -- it was Mr. Campbell

24

that made --

11:43:26 PM 25

CO-CHAIRMAN MACK: Well, you --

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

11:43:26 PM 1

MR. ROTHFELDER: -- the Motion.

2

CO-CHAIRMAN MACK: -- you take your

3

notes, but I think that -- that finishes the appeal.

4

MR. ROTHFELDER: Who was the third one?

11:43:28 PM 5

CO-CHAIRMAN MACK: If you'd like to see

6

it one more time? Those who were in the favor, please

7

raise your hand.

8

(Mr. Schindewolf, Mr. Campbell and

9

Ms. Davidson raised their hands.)

11:43:18 PM 10

CO-CHAIRMAN MACK: Those opposed?

11

(Mr. Buck, Ms. Davis, Mr. Silva and

12

Mr. Garver raised their hands.)

13

CO-CHAIRMAN MACK: You got it?

14

MR. ROTHFELDER: Thank you.

11:43:32 PM 15

CO-CHAIRMAN MACK: All right.

16

Okay.

17

18

19

20

21

22

23

24

25

GENERAL APPEALS BOARD HEARING
FOR TRINITY LUTHERAN CHURCH
JUNE 24, 2010

REPORTER'S CERTIFICATE

CITY OF HOUSTON

TRINITY LUTHERAN CHURCH EXCERPT

TAKEN ON JUNE 23, 2010

11:43:32 PM 1

2

3

4

11:43:32 PM 5

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11:43:32 PM 10

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11:43:32 PM 15

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11:43:32 PM 20

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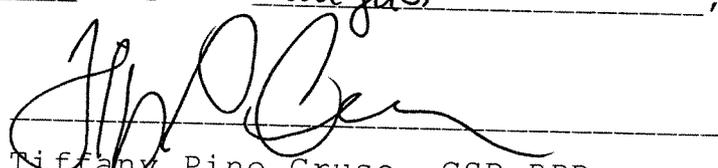
24

11:43:32 PM 25

I, TIFFANY PINO CRUSE, the undersigned Certified Shorthand Reporter in and for the State of Texas, certify that the facts stated in the foregoing pages are a true and correct excerpted transcription of all the proceedings in the above styled and numbered Hearing that were reported by me.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the 1st day of August, 2010.



Tiffany Pino Cruse, CSR RPR
Texas CSR 7766
Expiration: 12/31/2010
ADVANCED COURT REPORTING SERVICES
21106 Autumn Crest Drive
Richmond, Texas 77407
Telephone: (281) 831-4765

REQUEST FOR APPEAL OF DECISION OR INTERPRETATION

Date 03-11-10

TO: CITY OF HOUSTON

GENERAL APPEALS BOARD

3300 MAIN STREET, HOUSTON, TEXAS, 77002

FROM:

APPLICANT

Richard L. Rothfelder, Rothfelder & Falick, L.L.P.

ADDRESS

1201 Louisiana St., Ste. 550, Houston, TX 77002

TELEPHONE

(713) 220-2288

REPRESENTING:

FIRM

Trinity Lutheran Church

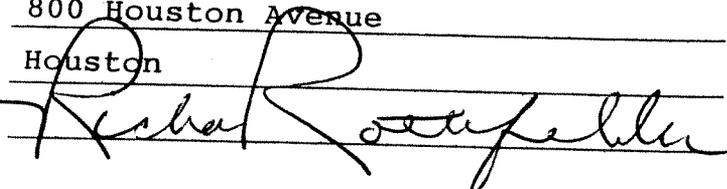
BUSINESS ADDRESS

800 Houston Avenue

CITY

Houston

SIGNATURE OF APPLICANT



REFERENCE:

SECTION

4619(c) of the
Houston Sign Code

PAGE

75

LIST OTHER CHAPTERS AND SECTIONS OF BUILDING CODE AFFECTED BY REQUEST:

REQUEST: (*) Please see attached Appeal.

DESCRIBE FULLY AND REASONS OR PURPOSE: (*)
Please see attached appeal.

(*) use reverse side if necessary

Prepare ten (10) copies

“sign” (either on-premise or off-premise), as that term is defined, for purposes of this chapter and is not subject to regulation under this chapter. A structure that is subject to regulation under this chapter may contain non-commercial messages in lieu of or in addition to any other messages, but the structure shall not be exempt from regulation as a sign under this chapter unless used exclusively and at all times as provided above for non-commercial messages.

Since the Church’s Sign displays only religious non-commercial messages, it is not even considered a “sign” subject to regulation by the Houston Sign Code. Structures that display such non-commercial messages exclusively and at all times need not comply with the height, size, number, spacing, illumination, or other restrictions in the Code. Therefore, the Sign may be operated as an LED illuminated changeable message sign without regard to the frequency of the changing of the message.

C. Even if it were subject to regulation by the Code, as a grandfathered structure, the LED illumination and change frequency provisions do not apply.

Even if the Sign was subject to regulation by the Houston Sign Code, the LED illumination and change frequency provisions do not apply because it is grandfathered as a non-conforming use and structure. Specifically, the Sign was permitted before the preliminary injunction order, final decision, and appeals were decided in the case of *RTM Media vs. City of Houston*. In connection with this case, rulings were made about the constitutionality of exemptions provided for non-commercial signage. These rulings originally caused the Houston City Council to amend, and later reinstate, Section 4619(c) of the Houston Sign Code. However, the *RTM* decisions and action of the City Council all occurred well after the Sign was legally permitted in February 2007. Therefore, the Sign is grandfathered for its use as an LED illuminated changeable message sign without any limitation on the changing of the frequency of the message.

D. The Sign is not subject to the September 1, 2009 amendments to the Code.

The Houston Sign Code was also amended effective September 1, 2009, in order to add additional restrictions on changeable message and LED illuminated signs. As indicated, however, the Sign previously existed as a permitted legal use and structure. Therefore, the Sign is grandfathered and need not comply with the provisions recently added by the City Council which became effective on September 1, 2009.

E. Previous Sign Administrator Susan Luycx agreed the Sign is grandfathered and not subject to the Code’s regulations.

The Sign was previously the subject of similar communications with the Houston Sign Administration, including former Houston Sign Administrator Susan Luycx. Ms. Luycx confirmed the foregoing in the email transmission attached as Exhibit 2-4. More specifically, Ms. Luycx stated, “...the permit was issued using the Sign Code in effect in February of 2007 which is prior to any court case or injunction and prior to the code change; therefore, the

March 11, 2010

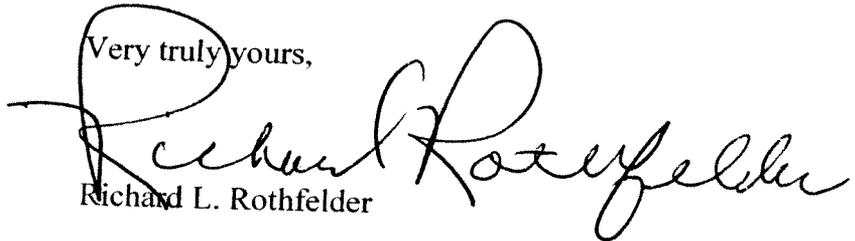
Page 4

electronic church sign is considered 'grandfathered' and is not subject to the sign Code regulations." Ms. Luycx concluded by stating, "I will inform the Inspector that the warning notice issued [see Exhibit 2-1] is invalid and must be withdrawn."

IV. Conclusion

Based on the foregoing, the Church respectfully requests that the Board conduct a formal hearing, that the decision of the City be reversed, and that the Church be permitted to continue to operate its Sign. Consistent with a telephone conversation I had with Mr. Buck today, I will be in contact with him regarding the scheduling of the hearing on this Appeal, which I understand may be scheduled at 5:00 p.m. on the fourth Thursday of each month. Please do not hesitate to contact me should you have any questions or require any further information

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard Rothfelder". The signature is written in a cursive style with large, sweeping loops.

Richard L. Rothfelder

JLD

Enclosures

March 11, 2010

Page 5

cc: General Appeals Board
c/o Maria Vrana, Secretary
City of Houston
3300 Main, 2nd Floor
Houston, TX 77002

Via Certified Mail, RRR #7009 1680 0001 7224 8030

General Appeals Board
c/o Katye Tipton, Division Manager
Houston Sign Administration
City of Houston
2636 South Loop West, Suite 675
Houston, TX 77054

Via Certified Mail, RRR #7009 1680 0001 7224 8054

Larry W. Schenk
Senior Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, TX 77001-0368

Via Certified Mail, RRR #7009 1680 0001 7224 8061

Robert Buck
Building Official Designee/General Appeals Board
City of Houston
P.O. Box 61167
Houston, TX 77208-1167

Via Certified Mail, RRR #7009 1680 0001 7224 8085



CITY OF HOUSTON

Legal Department

Annis D. Parker

Mayor

Arturo Michel
City Attorney
Legal Department
P.O. Box 368
Houston, Texas 77001-0368
City Hall Annex
900 Bagby, 4th Floor
Houston, Texas 77002

T. 832.393.6491
F. 832.393.6259
www.houstontx.gov

March 3, 2010

Richard Rothfelder
Rothfelder & Falick, LLP
1201 Louisiana Street, Suite 550
Houston, Texas 77002

Sent Via Certified Mail, RRR # 7004 1160 0004 1206 9797

Re: Trinity Lutheran Church LED Sign

Dear Mr. Rothfelder:

This letter is in response to your correspondence dated December 23, 2009, regarding the LED sign located at 800 Houston Avenue, Houston, Texas (the "Sign"), the location of Trinity Lutheran Church (the "Church").

As an initial matter, the Sign is not exempt from the requirements of Chapter 46 of the Building Code of the City of Houston (the "Sign Code"). When City Council passed Ordinance No. 2009-655 last year, several relevant amendments to the Sign Code went into effect: first, the definition of "sign" was amended to include any display that is "used to advertise or *inform*" (emphasis added). In addition, Section 4611(h) was added, providing that the City's regulations on changeable message and high technology signs apply "to all *existing* and new changeable message and high technology signs" (emphasis added). Finally, the definition of "spectacular sign" was amended to an "[a]utomatically changing message that changes more often than once every five minutes," such signs being prohibited pursuant to Section 4608(m) of the Sign Code.

The provisions cited above are clearly applicable to the Sign. The purpose of the Sign is to inform church members, as well as motorists and pedestrians, of the activities and services that the Church provides. While these messages are not technically advertisements, they do provide information to the readers. The Sign itself, as you have noted, is a changeable message sign. Pursuant to Section 4611(h), therefore, the regulations on changeable message signs apply to the Sign regardless of whether it existed before or after Ordinance No. 2009-655 was passed. Consequently, the prohibition against changeable message signs whose message changes more frequently than once



every five minutes applies to the Sign. It is noteworthy that you do not argue that these ordinance provisions require substantive structural changes to the Church's sign; indeed, Section 4611(h) merely regulates the brightness and duration of the message and nothing more.

With regard to the previous Sign Administrator's email of February 12, 2009, that email was written several months before the passage of Ordinance No. 2009-655, and is not inconsistent with the City's current position; namely, that Ordinance No. 2009-655 expands the definition of sign to informative displays such as the Sign and regulates preexisting, present and future changeable message signs.

Please let this letter serve as notice that the Sign must comply with all applicable sign regulations not later than March 31, 2010. The Sign cannot change its message more frequently than every five minutes, or the Sign will be prohibited, and the City will proceed to exercise the remedies available to it for enforcement against noncompliance with the Sign Code.

Please feel free to contact this office if you wish to discuss this matter in further detail. All future communication regarding this matter should be directed to the undersigned or the municipal court prosecutor, as appropriate.

Sincerely,



Larry W. Schenk
Senior Assistant City Attorney

This letter is a response to your correspondence and should not be considered an official opinion of the City of Houston Legal Department.

cc: Susan T. Taylor, Deputy City Attorney
Andrew F. Icken, Chief Development Officer
Mark Loethen, Acting Deputy Director, Planning and Development Services,
Department of Public Works and Engineering
Katherine Tipton, Division Manager, Sign Administration, Department of Public
Works and Engineering
Nancy Brewer, Staff Analyst, Department of Public Works and Engineering

ROTHFELDER & FALICK, L.L.P.
ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-224
FACSIMILE: 713-651
WWW.ROTHFELDERFALIC

December 23, 2009

Ms. Katye Tipton
Sign Administrator
City of Houston
P.O. Box 61167
Houston, TX 77028-1167

Via Certified Mail, RRR, #7009 1680 0001 7224 8931
and Email

**RE: LED Illuminated Changeable Message Sign of Trinity Lutheran Church
located at 800 Houston Avenue; Our File No. 1440-1.**

Dear Katye:

The law firm of Rothfelder & Falick, L.L.P. represents Trinity Lutheran Church (the "Church"), in connection with its LED (light emitting diode) illuminated changeable message sign located at 800 Houston Avenue, Houston, Texas (the "Sign"). As such, the enclosed Notice for Sign Violation ("Notice", Exhibit 1) dated December 21, 2009 to the Church has been referred to us for handling and this response.

The Notice alleges the Houston Sign Code is violated by the Church for using its Sign in the following manner: "LED boards cannot change messages more than every five minutes." We respectfully disagree with the alleged violation contained in the Notice for the following reasons.

First, the Sign, photographs of which are attached as Exhibit 2, displays the Church's worship times and other non-commercial messages. It is legally permitted as a grandfathered non-conforming use and structure. Enclosed as Exhibit 3 are the permit and associated materials for the Sign, indicating issuance in February 2007 without regulating the frequency of the message change. Thus, the Sign is permitted as an LED illuminated changeable message sign, and it is not subject to a five minute or other change time.

Second, the Sign is exempt under Section 4619(c) of the Houston Sign Code. This provision exempts religious and other non-commercial messages from the various provisions of the Houston Sign Code, including the LED illumination and frequency of the changing of the message restrictions:



(c) Exclusion. The provisions of this section shall not be construed to require the removal of a structure that is used exclusively and at all times (except when there is no copy at all on the structure) for messages that do not constitute advertising, including but not limited to, political messages, religious or church related messages, public service, governmental and ideological messages and other copy of a nature that is not commercial advertising because such a structure is not a "sign" (either on-premise or off-premise), as that term is defined, for purposes of this chapter and is not subject to regulation under this chapter. A structure that is subject to regulation under this chapter may contain non-commercial messages in lieu of or in addition to any other messages, but the structure shall not be exempt from regulation as a sign under this chapter unless used exclusively and at all times as provided above for non-commercial messages.

Since the Sign of the Church is limited to religious non-commercial messages, it is not even considered a "sign" subject to regulation by the Houston Sign Code. Therefore, the Sign may be operated as an LED illuminated changeable message sign without regard to the frequency of the changing of the message.

Third even if the Sign was subject to regulation by the Houston Sign Code, the LED illumination and change frequency provisions do not apply because it is grandfathered as a non-conforming use and structure. Specifically, the Sign was permitted before the preliminary injunction order, final decision, and appeals were decided in the case of *RTM Media vs. City of Houston*. In connection with this case, rulings were made about the constitutionality of exemptions provided for non-commercial signage. These rulings originally caused the Houston City Council to amend, and later reinstate, Section 4619(c) of the Houston Sign Code. However, the *RTM* decisions and action of the City Council all occurred well after the Sign was legally permitted. Therefore, the Sign is grandfathered for its use as an LED illuminated changeable message sign without any limitation on the changing of the frequency of the message.

Fourth, the Houston Sign Code was also amended effective September 1, 2009, in order to add additional restrictions on changeable message and LED illuminated signs. As indicated, however, the Sign previously existed as a permitted legal use and structure. Therefore, the Sign is also grandfathered and need not comply with the provisions recently added by the City Council and effective September 1, 2009 either.

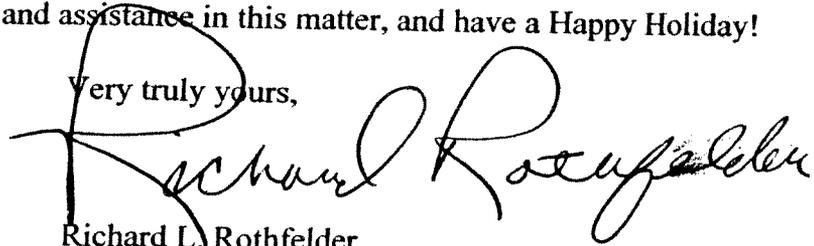
Fifth, the Sign was previously the subject of similar communications with the Houston Sign Administration, including former Houston Sign Administrator Susan Luyx. Ms. Luyx confirmed in the email transmissions attached as Exhibit 4 the foregoing explanations, namely that "the electronic church sign is considered grandfathered and it not subject to the sign code regulations."

I trust the foregoing explanation clarifies the apparent misunderstanding about the Church and the Sign. If you continue to have any questions or require any further assistance, please contact me at your earliest convenience. Otherwise, the Church will consider the apparent discrepancy resolved, and it will continue to operate the Sign in a legal fashion.

Ms. Katye Tipton
December 23, 2009
Page 3

Thank you for your cooperation and assistance in this matter, and have a Happy Holiday!

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard Rothfelder". The signature is written in a cursive style with a large initial "R".

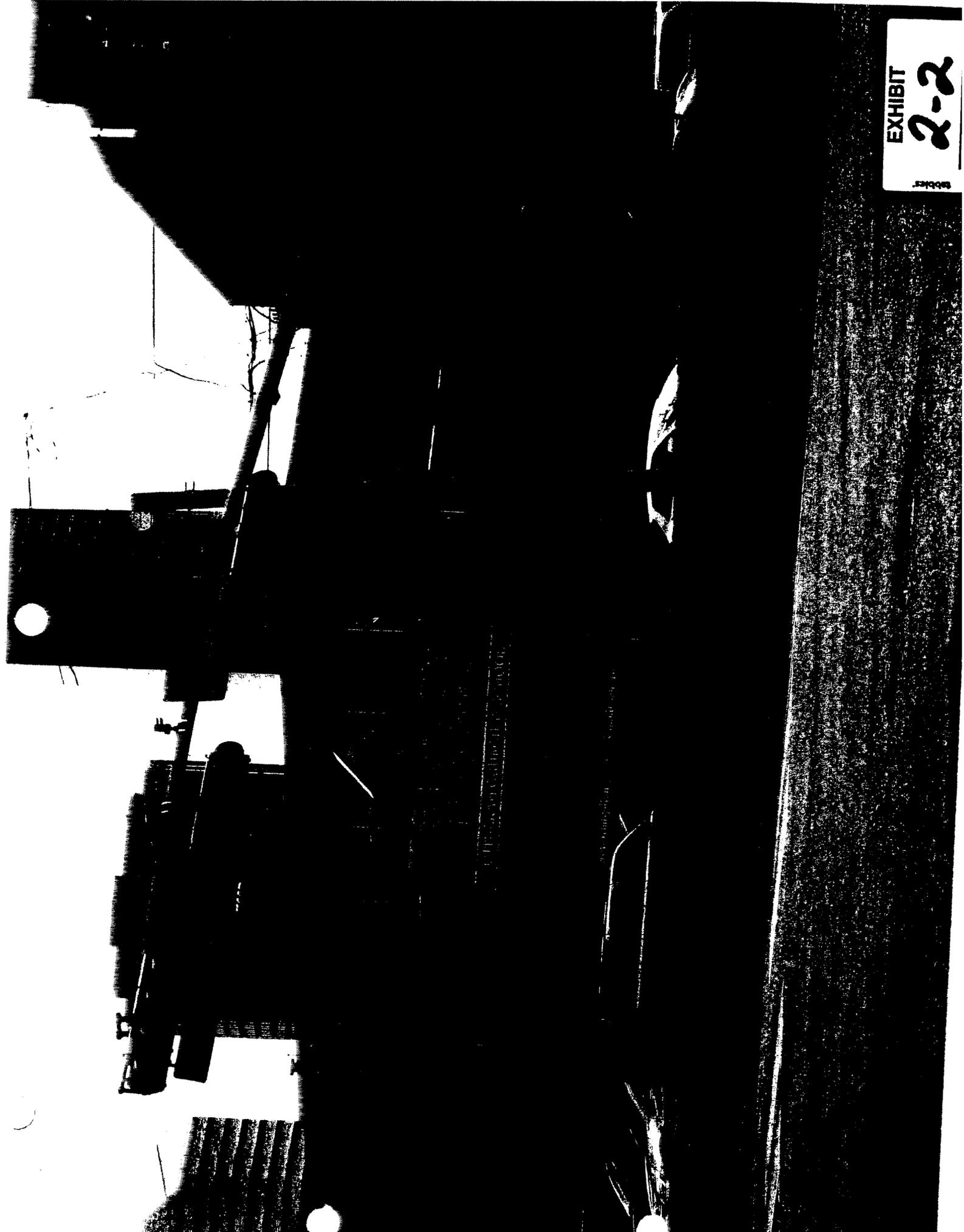
Richard L. Rothfelder

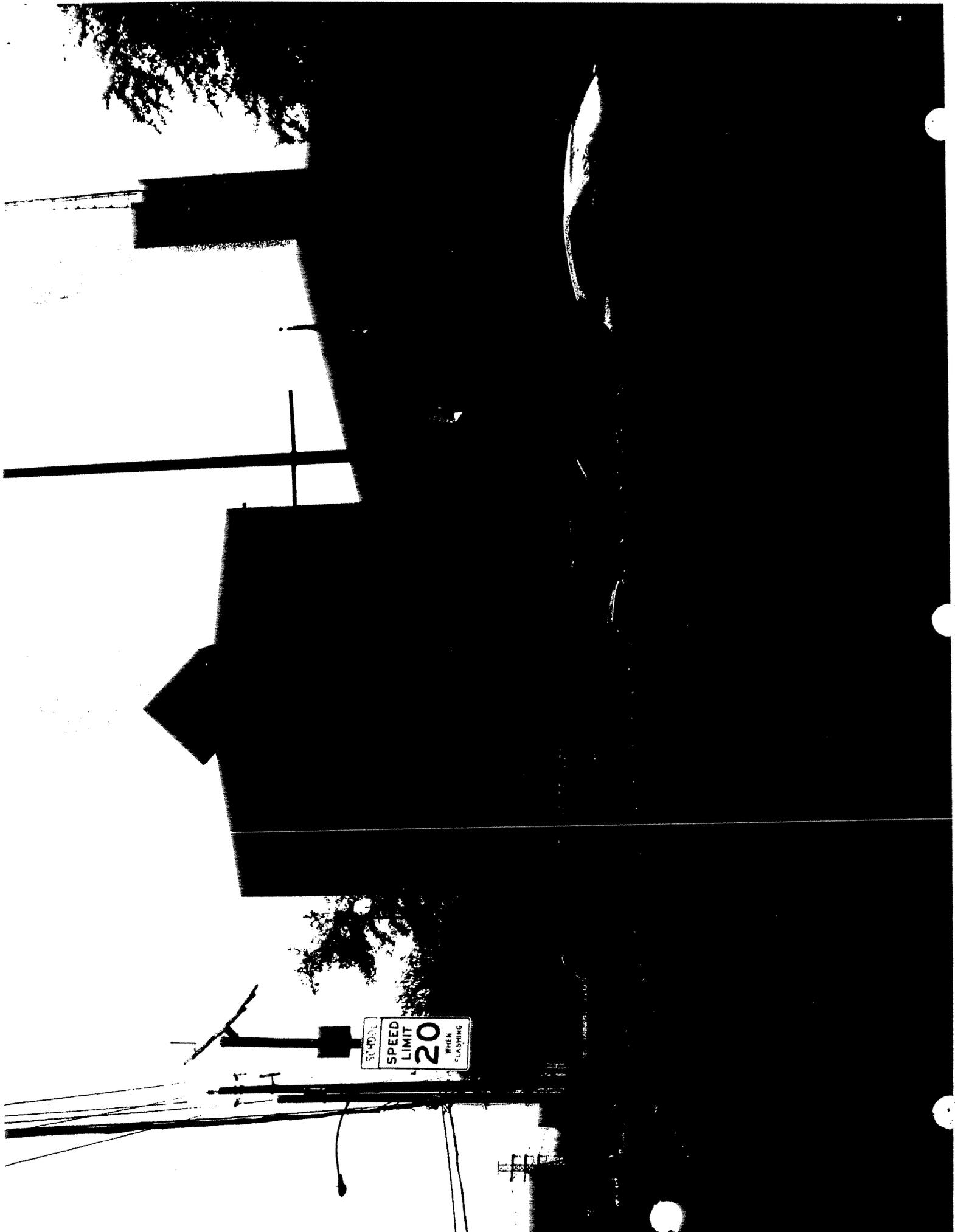
RLR:mr
Enclosures

EXHIBIT

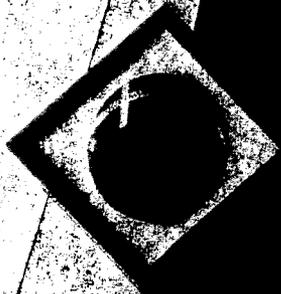
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Books





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LIMIT
20
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FLASHING



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Downtown

WEEPIAN CHURCH & SCHOOL

www.trinitydt.org

Established 1879

300 Houston

City of Houston Department of Planning & Development Sign Administration

Applicant, by the making execution and submitting of application to the Planning & Development Department of the City of Houston, Texas represents and warrants that the proposed construction described in said application is not in violation of or contrary to any deed restriction or covenant running with the land relating to the addition or subdivision, if any, in which the herein described lot, tract or parcel of land is situated.

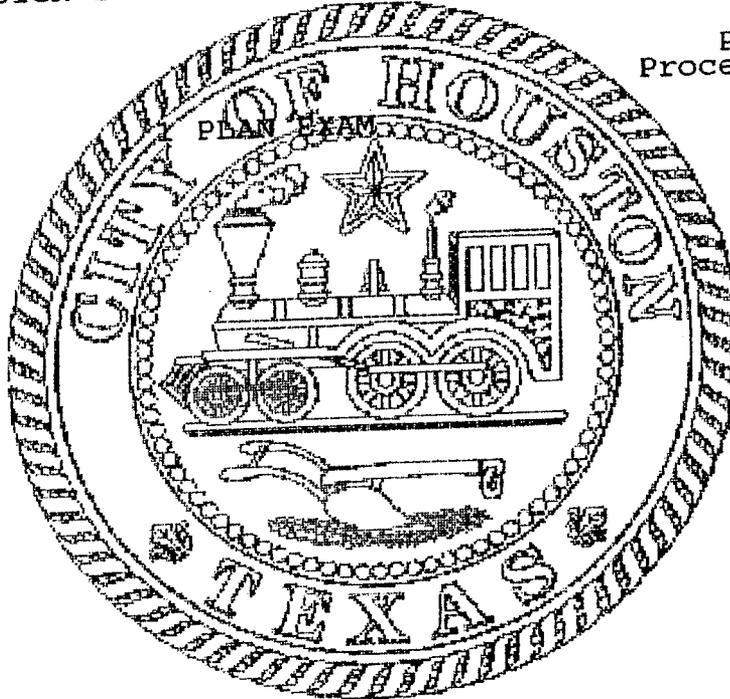
The applicant further represents and warrants to the City of Houston, Texas and to the property owners lying and situated within the addition or subdivision in which the herein tract of land is situated, that such application, and the erection of the herein described construction and the eventual use thereof will not be used for any purpose which is prohibited by the deed restrictions or covenants running with the land within such subdivision or addition.

Applicant accepts this building permit subject to the foregoing representation and warranties and agrees that if such construction or use be in violation of any deed restrictions or covenants running with the land that such building permit shall automatically become void and of no effect without the necessity of any action on the part of the City of Houston, Texas or any property owner.

Date 27-FEB-2007				Receipt No. 3822790		Proj. Type SHELL		Project No. 07017123		
Occupant *TRINITY LUTHERAN CHURCH				Sprinklers		%		Type		
Address 800 HOUSTON AVE				Space		TID No. 013-151-000-0016				
City HOUSTON		Zip Code 77007		County HARRIS		Bldgs 01	Units	Story 2	Occ. Gp 5 E A	Zone
Applicant *STATE SIGN				Lic. No. 00001013		Phone 7139431869				
Use N1 2F 1P ILUM 12X12X19 TRINITY DOWNTOWN										

	APA CHRG	\$105.
SIGN SITE INSP	SIGN SITE INSPECTION PERMIT	TOTAL FEE
		105.00
		Permit Fee
		95.00
		Processing Fee
		10.00
		95.00

1 SITE INSPECTN



PERMIT and FEES POST PERMIT ON JOB LOCATION

FOR REINSPECTION CALL:

Sign Administration

713-535-7900

Interactive Voice System

713-527-1111

Any structural work authorized by this permit is issued based on an affidavit stating that the work above does not violate any applicable deed restriction or supercede any orders issued by the D. B. Hearing Office.



City of Houston Department of Planning & Development Sign Administration

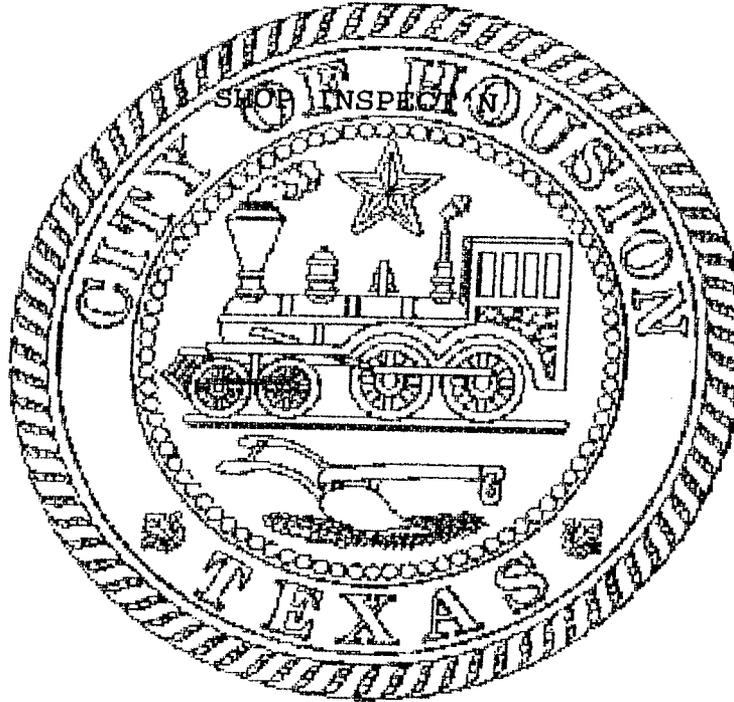
Applicant, by the making execution and submitting of application to the Planning & Development Department of the City of Houston, Texas represents warrants that the proposed construction described in said application is not in violation of or contrary to any deed restriction or covenant running with the relating to the addition or subdivision, if any, in which the herein described lot, tract or parcel of land is situated.

The applicant further represents and warrants to the City of Houston, Texas and to the property owners lying and situated within the addition or subdivision in which the herein tract of land is situated, that such application, and the erection of the herein described construction and the eventual use thereof will not be used for any purpose which is prohibited by the deed restrictions or covenants running with the land within such subdivision or addition.

Applicant accepts this building permit subject to the foregoing representation and warranties and agrees that if such construction or use be in violation of any deed restrictions or covenants running with the land that such building permit shall automatically become void and of no effect without the necessity of action on the part of the City of Houston, Texas or any property owner.

Date 27-FEB-2007				Receipt No. 3822791		Prof. Type SHELL		Project No. 070	
Occupant *TRINITY LUTHERAN CHURCH									
Address 800 HOUSTON AVE									
City HOUSTON		Zip Code 77007		County HARRIS		Bldgs 01	Units	Story 2	TID No. 013-151-000-00
Applicant *STATE SIGN									
Use N1 2F 1P ILLUM 12X12X19 TRINITY DOWNTOWN						Occ. Gp 5 E A		Zone	
								Lic. No. 7321	Phone 7139431869

	SIGN ELECTRICAL INSTALLATION	APA CHRG	\$2
SIGN ELEC INST			TOTAL FEE 210
3 ADDED LOAD			Permit Fee 210
			210



FOR REINSPECTION CALL:

PERMIT and FEES POST PERMIT ON JOB LOCATION

Administration

713-535-7900

Interactive Voice System

713-525-70

Any structural work authorized by this permit is issued based on an affidavit stating that the work above does not violate any applicable deed restriction or supercede any orders issued by the D. B. Hearing Office.

City of Houston Department of Planning & Development Sign Administration

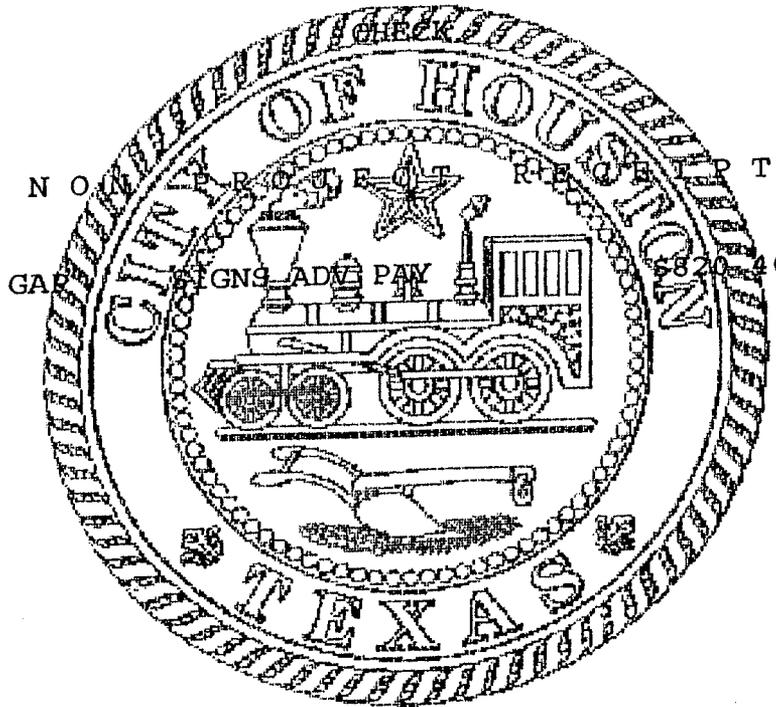
Applicant, by the making execution and submitting of application to the Planning & Development Department of the City of Houston, Texas represents and warrants that the proposed construction described in said application is not in violation of or contrary to any deed restriction or covenant running with the land relating to the addition or subdivision, if any, in which the herein described lot, tract or parcel of land is situated.

The applicant further represents and warrants to the City of Houston, Texas and to the property owners lying and situated within the addition or subdivision, in which the herein tract of land is situated, that such application, and the erection of the herein described construction and the eventual use thereof will not be used for any purpose which is prohibited by the deed restrictions or covenants running with the land within such subdivision or addition.

Applicant accepts this building permit subject to the foregoing representation and warranties and agrees that if such construction or use be in violation of any deed restrictions or covenants running with the land that such building permit shall automatically become void and of no effect without the necessity of any action on the part of the City of Houston, Texas or any property owner.

Date 27-FEB-2007					Receipt No. 0669473		Prof. Type		Project No. NON-PROJECT	
Occupant					Sprinklers		%		Type	
Address 7630 HANSEN					Space		TID No.			
City HOUSTON		Zip Code 77061		County	Bldgs	Units	Story	Occ. Gp		Zone
Applicant *STATE SIGN					Lic. No. 00001013			Phone 713-943-1869		
Use 2007DEPOSIT INTO APA ACCOUNT										

\$820.40



PERMIT and FEES POST PERMIT ON JOB LOCATION

REINSPECTION CALL:

Sign Administration

713-535-7900

Interactive Voice System

713-525-7

Any structural work authorized by this permit is issued based on an affidavit stating that the work above does not violate any applicable deed restrictions and does not supercede any orders issued by the D. B. Hearing Office.

Site Verification Sheet

Project # 07017123
Johnson
 Inspector Number 903
 / / /

Inspector Name _____
 Date of Inspection 02/28/07

/800 houston ave / 77002

/state signs

Sign Company/Applicant	Sign Address	Suite	Zip Code
------------------------	--------------	-------	----------

Sign Count:

of signs on application 1 # of existing signs to remain 2 # of signs to be removed 0 # of exempt signs 3

New Total of Permitted Signs:

3rd 1 Roof 0 Wall 2 Awning 0 Proj 0 Marq 0 Port 0 Dir _____ Exempt 3

Frontage: () Single frontage () Single frontage with more than 350 ft. () Dual Frontage

Street Category: () Local/Res/Scen/Hist () Major Thr/fare () Freeway

Central Business District-wall sign maximum height is 42 ft.

Powerline Clearance:

	Horiz	Vert/Trans		Horiz	Vert/Trans
X) Communication line	3Ft	3Ft	() 750V-8.7 kv(open cond)	5Ft	8Ft () N/A
) 0 - 750V(insulated)	3Ft	3Ft	() 8.7KV-22kv(open cond)	6Ft	8Ft
) 0 - 750V(open cond)	5Ft	5Ft	() 22kv(open cond)	7Ft	9Ft

Is Site Approved? YES

Site Related Comments: CENTER OF POLE AS STAKED IS AT 11' SOUTH FROM PROPERTY LINE ON WASHINGTON AVE SIDE AND 14' NORTH FROM EXISTING PARKING CURB AND 10' WEST FROM EXISTING PARKING CURB.

If site is not approved, list comments on reverse side and enter comments on 103 screen.

Site Checklist:

Ground Sign:

	A	B	C	D	E
Does the sign comply with the provisions for the 45 ft visibility triangle?-----	YeXs/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
Is there 250ft unobstructed view of approaching traffic?-----	Yes/No/NXA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
Is the sign wholly contained on private property?-----	YXes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
Is the sign 3ft or more from a fire hydrant?-----	YeXs/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
Is the address displayed on the ground sign?-----	Yes/No/NXA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
Are the underground utilities marked?-----	YXes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
If yes, is the sign encroaching in the easement or interferes with utilities-----	Yes/NXo/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
1. If yes, notify applicant.-----	Yes/No/XNA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
b. If utilities are not marked, can you determine the ROW?-----	Yes/No/NXA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
1. If no, notify applicant.					
2. If yes, is the sign encroaching into the ROW?-----	Yes/No/NXA	Yes/No/NA	Yes/No/NA	Yes/No/NA	Yes/No/NA
a. If yes, notify applicant.					

NA 1. If yes, notify applicant.----- NA Yes/No/NA Yes/No/NA Yes/No/NA
 /NA b. If utilities are not marked, can you determine the ROW?-----Yes Yes Yes/No/NA Yes/No/NA
 Yes/No/NA 1. If no, notify applicant.----- No No Yes/No/NA Yes/No/NA
 2. If yes, is the sign encroaching into the ROW?----- No Yes/No/NA Yes/No/NA
 Yes/No/NA a. If yes, notify applicant.

Other Signs:
 7. Is the projecting sign 14ft from finished grade and 2ft behind curb?----- NA NA Yes/No/NA Yes/No/NA Yes/No/NA
 3. Is the marquee sign, 8ft from finished grade?----- NA NA Yes/No/NA Yes/No/NA Yes/No/NA
 2. Is the sign located within the Harris County Toll Road Authority jurisdiction?----- No No Yes/No/NA Yes/No/NA Yes/No/NA
 a. If yes, do you have a copy of the county permit?----- NA NA Yes/No/NA Yes/No/NA Yes/No/NA
 10. Is the business enterprise a sexually oriented business?----- No No Yes/No/NA Yes/No/NA Yes/No/NA
 NA a. If yes, has Vice of HPD been notified to your knowledge?----- NA No Yes/No/NA Yes/No/NA Yes/No/NA
 NA b. If no, notify your Section Chief.
 11. As a result of the above site questionnaire, does the applicant need to be notified of deficiencies? (x) No () Yes If yes, who did you notify, time and date

Site Rejection Comments:

RM 2/28/07

 Date

Reviewing CDP Supervisor

Location:

Trinity Lutheran Church

800 Houston Ave

Houston TX
77007

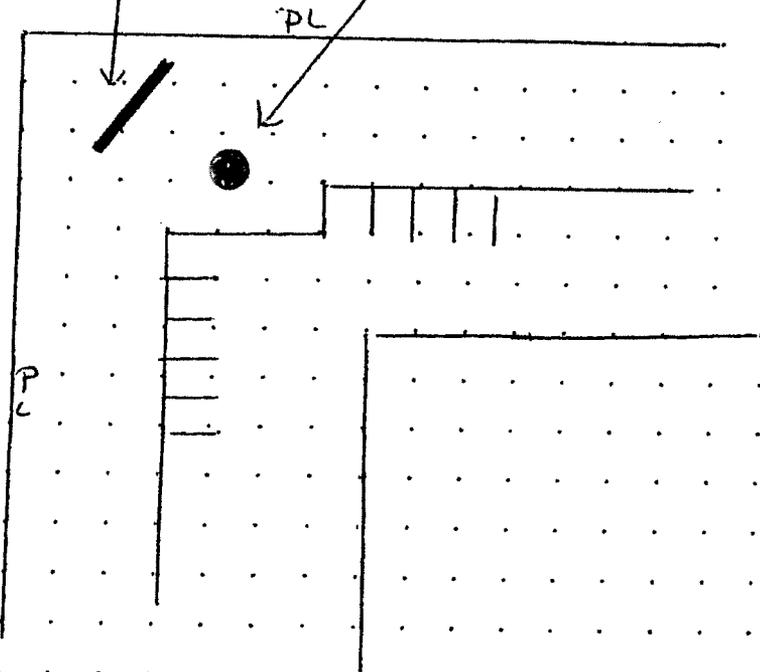
STATE SIG
CORPORATION

SITE SURVEY



NEW. D/F monument sign.

existing light stand





STATE SIGN CORPORATION

PO Box 750429 / 7530 Haosen
Houston, Texas 77275-77061
(713) 943-1831

JPMorgan Chase Bank
Dallas, TX 75201-2733

32-115/410

7/15/11

11071941

7/15/11

CITY OF HOUSTON

PAY TO THE
ORDER OF

Eight-hundred-twenty $\$$ 40/100

CITY OF HOUSTON

\$ 320.40

DOLLARS

Security Features. Details on back.

[Handwritten Signature]

NOT NEGOTIABLE

AUTHORIZED SIGNATURE

MEMO

⑆087979⑆ ⑆1100⑆150⑆F04000027⑆10⑆

State Sign Corporation

CITY OF HOUSTON

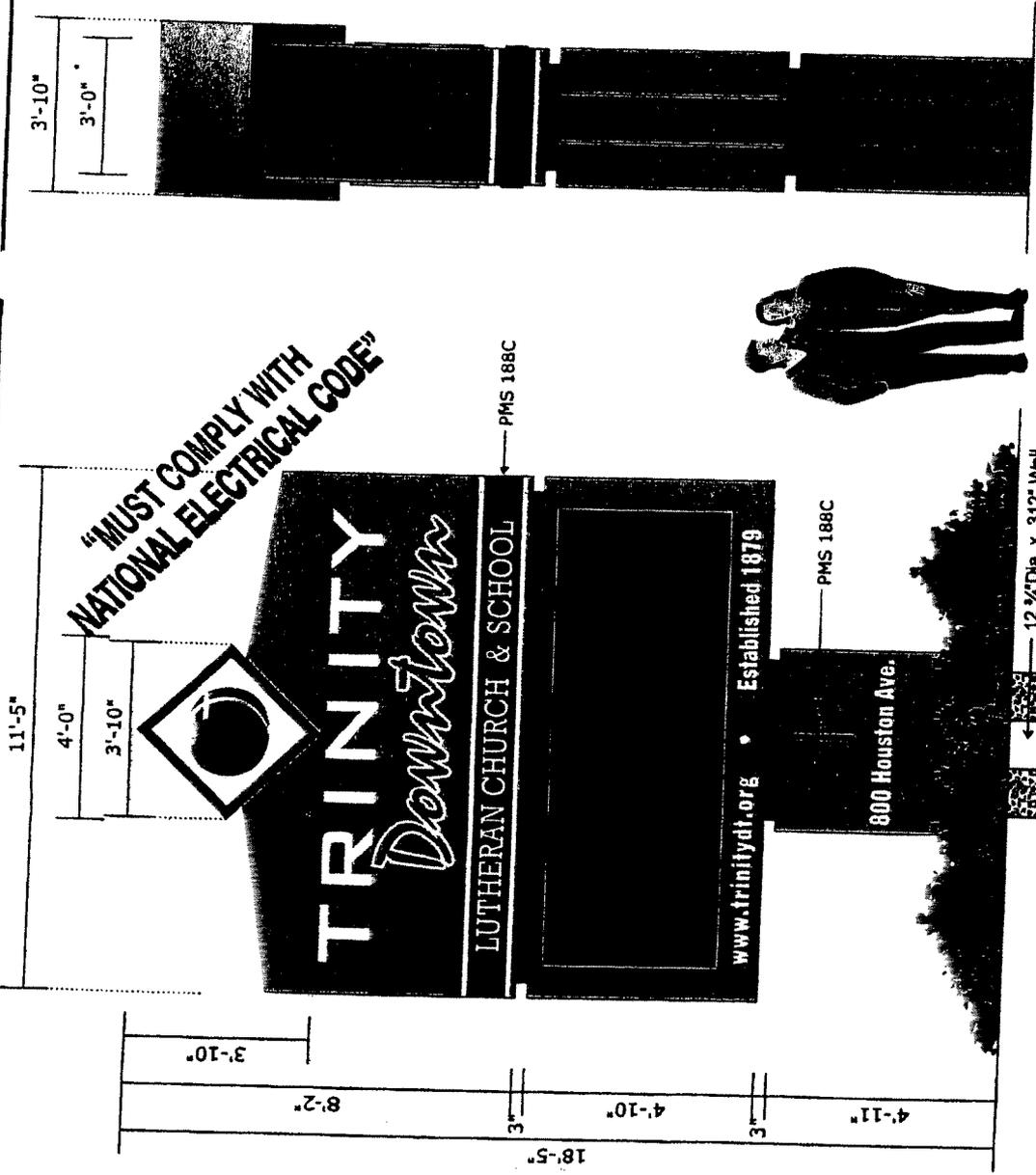
PERMIT

2/26/2007

87979

7-48812-WALGIRENS-215 WESTHEMER-	200 ⁰⁰
1-48786-TRINITY LUTHERAN CHURCH-800 HOUSTON AVE. -	315 ⁰⁰
1-48402-TRUSTMART- 11709 WILCREST-	305 ⁴⁰
11709	<u>820⁴⁰</u>

Chase Bank-Ch



Description

Manufacture and install one (1) double faced, internally illuminated pylon sign with routed aluminum faces as shown. All copy on top cabinet to be 3/4" push thru, with 1st surface vinyl as required. Copy on bottom cabinet to be 3M HP white vinyl applied to first surface.

Logo shall be 1st surface Digital Print.

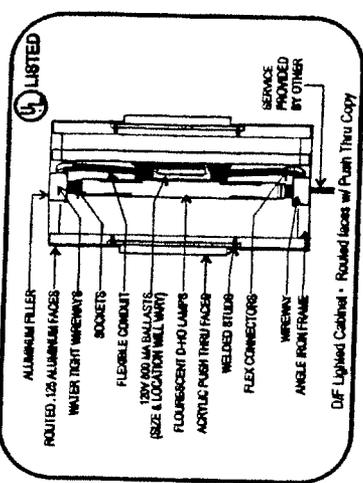
Top cabinet to include photo cell.

Colors

- PMS 451C (Toupe)
- ICI 70RR 10250 (Tapestry Red)
- White Acrylic
- 3M Translucent Burgundy
- 3M Translucent Turquoise
- 3M HP White Vinyl

Electronic Display

Daktronics Galaxy 20mm monochrome 3400 series. Double face with a display of 48x176 matrix. Message center will be operated via radio frequency modem. Display color to be 64 shades of monochrome amber.



Customer Approval
Sign: _____ Date: _____

Drawing No. 07-4749
Date: 03/24/06 Revised: 2-9-07
Job Location: TRINITY DOWNTOWN
Street: 800 Houston Ave.
City, State: Houston, Texas 77007

Work Order 1-48786
Designer: Jim Stettner
File: S:\Trinity Downtown\Trinity Downtown7.cdr

- All Dept
- Permit Dept
- Electric Dept
- Plumbing
- Installation
- Permit (2)
- Master
- Shop File
- Channel Ltr
- Neon
- Router

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7630 Houston
Houston, TX 77061 713-943-1832
3400 South Hwy 87 409-735-5553
Orange, TX 77630 409-735-9124 (fax)
www.statesign.com

Pylon Sign
Scale: 3/8" = 1'-0"

TATE SIGN Corporation
 Sign Dept

GRANDFATHER NOTICE

Nelson Flanagan

From: Luycox, Susan - PWE - CE [Susan.Luycox@cityofhouston.net]
Sent: Thursday, February 12, 2009 6:52 AM
To: 'marisa@statesign.com'; Nelson Flanagan; 'rani@statesign.com'
Cc: Lorton, Lisa - PWE - CE; McClennon, Robert - PWE - CE
Subject: FW: SEE BELOW

Good morning everyone,

The issue with regard to the warning notice issued to Trinity Church has made it to my desk for review. In researching this, the permit was issued using the Sign Code in effect in February of 2007 which is prior to any court case or injunction and prior to the code change; therefore, the electronic church sign is considered "grandfathered" and is not subject to the Sign Code regulations. I will inform the Inspector that the warning notice issued is invalid and must be withdrawn.

Let me know if there are any questions.

Susan Luycox

Division Manager/Sign Administrator

Sign Administration

713-218-5829 (X 85829)

713-218-5838 Fax

susan.luycox@cityofhouston.net

www.publicworks.houstontx.gov/planning/enforcement/signadmin.htm

From: Marisa Ayala [mailto:marisa@statesign.com]
Sent: Tuesday, February 10, 2009 4:00 PM
To: Robert McClennon
Subject: FW: from Nelson

Woodie,



**CITY OF HOUSTON
BUILDING CODE
CHAPTER 46**

HOUSTON SIGN CODE

**NOTE: ALTHOUGH THIS SIGN CODE
CONSTITUTES CHAPTER 46 OF THE CITY OF
HOUSTON BUILDING CODE (BASED UPON THE
2003 INTERNATIONAL BUILDING CODE), IT IS
SEPARATELY PUBLISHED.**

Current through Ordinance No. 2010-69
Effective January 27, 2010
Compiled by the City of Houston Legal Department

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Chapter 46

HOUSTON SIGN CODE

SECTION 4601--SCOPE

(a) General. The provisions of this Chapter 46 shall apply to all "signs," as that term is defined herein, within the "sign code application area," as that term is defined herein.

(b) Toll Road Signs. Signs regulated under this chapter that are visible from the main-traveled way of toll roads within Harris County are subject to additional regulation under the regulations adopted by Harris County Commissioners Court at Volume 126, page 348, of the Commissioners Court records and amendments thereto. A separate permit may be required from the county engineer and the county regulations may be more restrictive. Approval of plans, issuance of a permit or approval of work by the City does not constitute the approval of Harris County.

SECTION 4602--DEFINITIONS

In this chapter, the following terms shall have the meanings herein ascribed to them, unless the context of their usage clearly indicates another meaning:

ADVERTISING shall mean to seek the attraction of or to direct the attention of the public to any goods, services or merchandise whatsoever.

BUSINESS PURPOSES shall mean the erection or use of any property, building or structure, permanent or temporary, for the primary purpose of conducting in said building or structure or on said property a legitimate commercial enterprise in compliance with all ordinances and regulations of the city governing such activity; a business purpose shall not include any property, building or structure erected or used for the primary purpose of securing a permit to erect a sign.

CABINET shall mean that portion of a sign structure containing the advertising display.

CANDELA shall mean a unit of luminous intensity equal to 1/60 of the luminous intensity per square centimeter of a blackbody radiating at the temperature of solidification of platinum (2,046°K). Also called *candle*.

CHANGEABLE MESSAGE SIGN shall mean any on-premise sign that is capable of changing its message, copy or appearance by electronic processes, and shall include but not be limited to those on-premise signs employing changeable message light emitting diode technology, commonly referred to as LED signs.

CITY CODE shall mean the Code of Ordinances of the City of Houston, Texas, as amended.

CURB LINE shall mean an imaginary line drawn along the edge of the pavement on either side of a public street.

COMMERCIAL OR INDUSTRIAL ACTIVITY shall mean property that is devoted to use for commercial or industrial purposes and not for residential purposes. "Commercial or industrial activity" shall not include the following:

- (1) Signs;
- (2) Agricultural, forestry, ranching, grazing, farming and related activities, including but not limited to temporary wayside fresh produce stands;

or Section 43.052 of the Local Government Code, as applicable.

ELECTRONIC SIGN shall mean any off-premise sign that is capable of changing its message, copy or appearance by electronic or mechanical processes, and shall include but not be limited to those signs employing changeable message light emitting diode technology, commonly referred to as LED signs.

FEDERAL PRIMARY SYSTEM shall mean the Interstate and Freeway Primary System and the Nonfreeway Primary System.

FREEWAY shall mean any state highway or federal highway or county highway within the sign code application area to or from which access is denied or controlled, in whole or in part, from or to abutting land or intersecting streets, roads, highways, alleys or other public or private ways.

FRONTAGE shall mean that portion of any tract of land that abuts a public street right-of-way.

GENERAL RIGHT-OF-WAY shall mean a right-of-way that is not classified as a predominantly residential right-of-way or scenic or historical right-of-way or district and that is owned, leased or otherwise legally controlled by the person placing a sign thereon.

HIGH TECHNOLOGY SIGN shall mean any sign that utilizes electronic processes, such as light emitting diode (LED) technology, rather than mechanical or other means, to display a fixed and unchangeable message.

HIGHWAY shall mean any state highway, federal highway, or county highway that does not constitute a freeway.

INSTITUTION OF HIGHER EDUCATION shall mean a private or independent institution of higher education, as defined in Section 61.003(15) of the Texas Education Code, located on a single campus comprising an area in excess of twenty acres and located within the corporate limits of the city. In determining the size of the campus, areas containing dedicated streets shall be included as part of the campus.

INTERSTATE AND FREEWAY PRIMARY SYSTEM shall mean that portion of the national system of interstate and defense highways located within Texas that are now or hereafter may be officially designated the "Interstate System" by the Texas Transportation Commission and approved pursuant to Title 23, United States Code, Section 131, as amended.

PERSON shall mean an individual, company, corporation, partnership, association or any other entity.

PREDOMINANTLY RESIDENTIAL RIGHT-OF-WAY shall mean a public right-of-way between two intersecting public streets in which a majority of the total front footage is used for residential purposes.

PUBLIC RIGHT-OF-WAY shall mean any part of a right-of-way that is not privately owned or controlled and that is the responsibility of the city or other similar public agency to maintain.

PUBLIC STREET shall mean the entire width between property lines of any road, street, way, alley, bridge or other similar thoroughfare, not privately owned or controlled, when any part thereof is open to the public for vehicular traffic, is the responsibility of the city or other similar public agency to maintain, and over which the city has legislative jurisdiction under its police power.

RATED shall mean fire rated as established in Table 302 of this Code.

RESIDENTIAL PURPOSES shall mean property devoted to use as a single-family or multifamily residence. Residential purposes shall include, but not be limited to, property used for houses, duplexes, condominiums, townhouses, townhomes, patio homes and apartments; property used for hotels, motels and boarding houses shall not be considered as used for residential purposes. Property devoted to both residential and nonresidential use shall be considered as used for residential purposes.

RIGHT-OF-WAY shall mean the property fronting on, immediately adjacent to and on either side of a public street or a nonpublic street.

SCENIC OR HISTORICAL RIGHT-OF-WAY OR DISTRICT shall mean those areas described in Appendix A to this chapter, each of which is specified with its date of creation.

SIGN shall mean any outdoor display, design, pictorial or other representation that shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is designed, intended, or used to advertise or inform, or any similar display, design, pictorial, or other representation appearing in a window in a manner to be visible from the right-of-way. The term "sign" shall include the sign structure. Every sign shall be classified and conform to the requirements of each of such classifications set forth in this chapter.

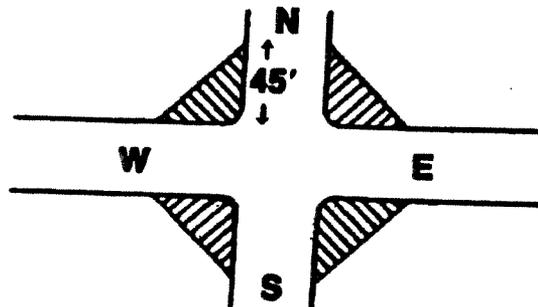
Section 4602

district by tangent lines connecting the points on each tract external to the contiguous area.

TOTAL FRONT FOOTAGE shall mean the total length of the footage of property fronting on both sides of a public street.

VISIBLE shall mean capable of being seen from a right-of-way, whether legibly or not, by a person of normal visual acuity without the use of visual aids.

VISIBILITY TRIANGLE shall mean the triangular area adjacent to the intersection of any public street or public alley within which sight lines are maintained for vehicular traffic. The triangle is established by measuring a distance of 45 feet from the intersection of the extended curb or edge of the pavement of the street or alley. A straight line connecting the ends of each measured distance that forms the hypotenuse shall establish the visibility triangle.



SECTION 4603--CLASSIFICATIONS

(a) On-premise Signs and Off-premise Signs. For the purposes of this chapter and the regulations and provisions hereof, a sign shall be first classified as either an "on-premise sign" or an "off-premise sign."

ON-PREMISE SIGN shall mean any sign identifying, advertising, or providing information about the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and maintained when such premises is used for business purposes.

OFF-PREMISE SIGN shall mean any sign that advertises a business, person, activity, goods, products or services not usually located on the premises where the sign is installed and maintained, or that directs persons to any location not on the premises.

(b) Types of Signs. All signs shall further be classified into one of the following types of signs:

BANNER SIGN shall mean any sign constructed of cloth, canvas, light fabric or other light material, not to exceed 40 square feet in size; provided that portable signs, flag signs, and awning signs shall not be considered banner signs.

GROUND SIGN shall mean a sign that is supported by uprights or braces in or upon the ground, including portable signs.

MARQUEE SIGN shall mean a sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond a building.

PROJECTING SIGN shall mean any sign that is affixed to any building wall or structure and extends beyond the building wall or structure more than 12 inches.

ROOF SIGN shall mean any sign or portion of a sign erected, constructed or maintained above the roofline of any building.

WALL SIGN shall mean any sign affixed to or painted upon the wall of any building.

(c) Special Function Signs. Any on-premise or off-premise sign of any type may also be included within one or more of the following additional classifications according to special functions:

Section 4603

- (2) Blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating or spot lights, or similar devices;
- (3) Lights or colored elements creating a continuously moving, shimmering or prismatic effect; or
- (4) Rotating or moving parts.

(d) The various classifications established in this section shall also constitute definitions for purposes of the interpretation of this chapter.

SECTION 4604--SIGN ADMINISTRATION AND ENFORCEMENT

(a) Sign Administrator. The Director of Public Works and Engineering shall appoint a Sign Administrator to administer and enforce the terms and conditions of this chapter and all other provisions of law relating to signs. The Sign Administrator is empowered to delegate the duties and powers granted to and imposed upon him by this chapter to other persons serving under the Sign Administrator. The Sign Administrator and such other persons shall constitute the Sign Administration Section of the Department of Public Works and Engineering. The Sign Administrator is directed to enforce and carry out all provisions of this chapter.

(b) Enforcement Responsibility. The duties of the Sign Administrator shall include not only the issuance of permits as required by this chapter, but also the responsibility of ensuring that all signs comply with this chapter and any other applicable laws, and that all signs for which a permit is required do, in fact, have a permit. The Sign Administrator shall make such inspections as may be necessary and initiate appropriate action to bring about compliance with this chapter and other applicable law if such inspection discloses any instance of noncompliance. The Sign Administrator shall investigate thoroughly any complaints of alleged violations of this chapter.

(c) Powers of Sign Administrator. The Sign Administrator shall have the power and authority to administer and enforce the conditions of this chapter and all other laws relating to signs. Included among such powers are the following specific powers:

- (1) Every sign for which a permit is required shall be subject to the inspection and approval of the Sign Administrator. When deemed advisable by the Sign Administrator, a sign may be inspected at the point of manufacture if such point is within or adjacent to the sign code application area.
- (2) Upon presentation of proper identification to the owner, agent or tenant in charge of such property, the Sign Administrator or his representative may enter, for the purposes of inspecting and investigating signs or sign structures, any building, structure or other premises or property during normal business hours, provided, however, that in cases of emergency where extreme hazards are known to exist that may involve imminent injury to persons, loss of life or severe property damage, and where the owner, agent or tenant in charge of the property is not available after the Sign Administrator has made a good faith effort to locate same, the Sign Administrator may enter the aforementioned structures and premises at any time upon presentation of proper identification to any person on the premises. Whenever the Sign Administrator or his representative shall enter upon private property, under any circumstances, for the purpose of

consider the merits of the case and shall present a written opinion prior to any action. Provided further, however, that if, in the opinion of the Sign Administrator, the health, safety or welfare of the citizens of the sign code application area is endangered by any violation of this chapter, the Sign Administrator may immediately revoke any or all licenses or permits authorized by this chapter and shall conduct the necessary hearing as soon as possible thereafter, but in no case later than three business days after the effective date of the revocation unless the affected licensee or permittee shall request in writing a later date.

- (5) The Sign Administrator shall have the authority to adopt regulations required to implement the provisions of this chapter.
- (6) Pursuant to and in accordance with any agreement between the City and the State of Texas or the United States government, the Sign Administrator is hereby authorized to enforce any applicable terms and provisions of Chapter 391 of the Texas Transportation Code. The Agreement for Carrying out National Policy Relative to Control of Outdoor Advertising, entered into between the United States of America and the State of Texas by instrument dated May 2, 1972, any supplements or amendments to that agreement, and any rules or regulations promulgated by the State of Texas and/or the Texas Department of Transportation pursuant to the said act or agreements with regard to signs.

(d) Violations and Penalties. Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$300.00 and not more than \$500.00 for each violation. Each day in which any violation continues shall constitute a separate offense. To the extent that any violation of any provision of this chapter also constitutes a violation of state law, then it shall be punishable as provided by the applicable state law. In addition, the City Attorney is hereby authorized to take all actions, both legal and equitable, necessary to assure compliance with this chapter.

(e) Appeals.

- (1) Any person wishing to appeal a decision of the Sign Administrator on the grounds that the decision misconstrues or wrongly interprets this chapter may, within ten business days after the decision, appeal the same to the General Appeals Board, pursuant to its rules and regulations, and thence to the City Council. Either party in the appeal to the General Appeals Board, whether the original appealing party or the Sign Administrator, may appeal the decision of the General Appeals Board to the City Council by giving notice of appeal in writing to the City Secretary within ten days following the decision of the

Section 4604

The Sign Administrator may designate, in writing, a person under his supervision to act in his place as his duly authorized representative, said representative to enjoy all rights and privileges of the position. A copy of such a designation, specifying the dates any such person shall act as representative of the Sign Administrator, shall be filed with the minutes of the Sign Advisory Council. The Mayor shall designate as chairman a member of the local business community.

Upon a determination by the Mayor that the Sign Advisory Council should be constituted, members of the Sign Advisory Council shall be appointed by the Mayor, with the approval of the City Council, and shall serve for such term as the Mayor shall designate, with the approval of the City Council, not to exceed one year.

Whenever any position on the Sign Advisory Council becomes vacant by reason of death, resignation or removal, said vacancy shall be filled for the unexpired term of the member being replaced. Should a vacancy occur on the Sign Advisory Council, the Mayor shall appoint, subject to the consent of City Council, another qualified person to serve the unexpired term of such vacancy. Any member of the Sign Advisory Council may be removed at any time by the Mayor without consent of City Council. Each member of the Sign Advisory Council shall serve without compensation.

A City employee member of the Sign Advisory Council shall not vote as a member of such Council on any motion, resolution or recommendation by the Sign Advisory Council, but shall be permitted to give a written opinion or report to the Mayor and City Council concerning any such resolution or recommendation by the Sign Advisory Council.

The duty of the Sign Advisory Council shall be to consider and make recommendations to the Mayor and City Council concerning proposals to create scenic or historical districts or rights-of-way. The Sign Advisory Council may submit a written recommendation to the City Council concerning a scenic or historic district or right-of-way proposed to be created under the provisions of Section 4610 at any time prior to final City Council action on such proposal. Any such report, opinion or recommendation of the Sign Advisory Council is advisory only.

The Sign Advisory Council shall adopt reasonable rules and regulations for the conduct of its duties. A majority of the members of the Sign Advisory Council present, and lawfully meeting, shall determine the wishes of the Sign Advisory Council. All reports or recommendations delivered to the Mayor and City Council shall be rendered in writing with copies to the Sign Administrator.

The Sign Advisory Council shall prepare an agenda in advance of its meetings. The agenda shall be published by conspicuously posting a copy thereof at the City Hall and in the Sign Administration Office.

SECTION 4605--SIGN PERMITS AND FEES

(a) Permit Required. No person shall erect, reconstruct, alter, relocate or use a sign within the sign code application area without first having secured a written permit from the Sign Administrator to do so, subject to the exceptions set forth in Section 4605(b). It is an affirmative defense to prosecution under this subsection if a sign is excepted from having a permit under Section 4605(b).

(b) Exceptions. No permit shall be required under this chapter for on-premises signs of the following descriptions, unless any such sign is a spectacular sign or portable sign. Any sign listed hereunder shall be erected and maintained in a safe condition in conformity with the Construction Code.

- (1)** Signs painted on glass surfaces or windows or doors; provided however, that electrical signs or signs with structures, greater than six square feet in size, that appear in a window in a manner to be visible from the right-of-way shall require a permit as a wall sign. In addition, no more than twenty percent of a glass storefront may be covered with advertising content.
- (2)** Signs erected by or on behalf of the State of Texas (including political subdivisions thereof) or by or on behalf of the federal government. This exception shall not extend to signs erected by the City and City lessees unless the signs are situated upon property under the jurisdiction of the City's Aviation Department or property leased to the Harris County - Houston Sports Authority. Prior to April 9, 2002, this exception included signs erected by all City departments and City lessees; any sign lawfully erected by the City or any of its lessees as part of a construction project for which the building permit or a sign permit was issued before that date may be erected and continue to be repaired and maintained and may also be replaced with an equivalent sign erected in like manner in the event that the sign is destroyed by a casualty or in the event that the sign is removed and relocated for purposes relating to expansion or renovation of the facility that it serves.
- (3)** Railroad signs.
- (4)** Legal notices and house numbers.
- (5)** A sign not over 40 square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises.
- (6)** Signs authorized by and subject to the provisions of the City Code.

exceed the number of permanent signs for which permits have been issued, and any provisional sign must be removed immediately upon the final installation or completion of the permanent sign. No additional permits will be required for the provisional signs.

(c) Application Procedure.

- (1) The application for a permit shall be submitted in such form as the Sign Administrator may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with the provisions of this chapter. Construction permit applications for any new signs, when erected or constructed to heights exceeding eight feet above ground level or in excess of sixty square feet in size, shall be accompanied by a design drawing of the sign structure and the sign, followed by an as-built drawing based on an on-the-ground inspection, both of which have been prepared by and certified by a professional engineer registered in the State of Texas; the Sign Administrator at his option may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety.
- (2) Every application shall be executed and verified under oath by both the owner of the premises upon which the sign is to be or has been constructed, or the authorized lessee of such premises, and the sign company if the sign is an off-premise sign, that the sign is authorized to be erected or to be thereafter maintained on the premises, and shall contain the sworn affidavit of the owner or lessee and the sign company that the sign does not violate any applicable deed restriction or other similar restrictions on the premises.
- (3) If the location, plans and specifications set forth in any application for a permit conform to all of the requirements of this chapter and other applicable provisions of the Construction Code, the Sign Administrator shall issue the permit.

(d) Operating Permit Effectiveness--Renewal Permit. Each operating permit issued shall be effective for a period of three years. Not less than 30 days nor more than 60 days prior to the conclusion of each three-year period, applications may be made for a three-year extension of the permit. Such application shall be submitted in such form as the Sign Administrator may prescribe, accompanied by payment of applicable fees, and shall be executed, verified and contain the sworn affidavit described in Section 4605(c)(2). If the application for extension of permit fully meets the requirements of applicable law in effect at the time of such application, the Sign Administrator shall issue a renewal permit for an additional three-year period or such other time as may be required by law.

location and size limitations of this chapter. If such other existing signs were not legally and properly permitted or legally and properly exempt from having a permit prior to the effective date, they shall conform when an operating permit is issued.

- e. Any sign required by any proper authority to be licensed or permitted in an unincorporated area and not so licensed or permitted when said area is brought into the sign code application area by an annexation or extension of the area of extraterritorial jurisdiction shall not be considered to have been "legally and properly permitted" for the purposes of this subsection.
- (3) When any sign or a substantial part thereof is blown down or otherwise destroyed, or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols or other matter on such sign, it shall not be reerected, reconstructed, repaired or rebuilt, except in full conformance with this chapter. For purposes of this subsection, a sign or substantial part thereof is considered to have been destroyed if the cost of reerecting, reconstructing, repairing or rebuilding the sign is more than 60 percent of the cost of erecting a new sign of the same size, type and equivalent construction at the same location.
 - (4) For purposes of Section 4605(e)(3), as to on-premise signs only, the phrase "changing the letters, symbols or other matter on such sign" shall not include replacing the sign cabinet. Any on-premise sign cabinet replacement shall remain the same size as previously permitted and shall meet the structural requirements of this chapter, provided that the voluntary replacement of an on-premise sign cabinet, not incident to the sign structure being blown down or destroyed, shall not be permitted unless the sign structure is reerected, reconstructed, repaired or rebuilt in full conformance with this chapter.
- (f) Subterfuge.** Any permit secured before or after the effective date that, in the opinion of the Sign Administrator, has been secured through subterfuge and not in full compliance with the provisions of this chapter shall be revoked by the Sign Administrator, provided that such revocation shall conform with the provisions of Section 4604(c)(4) regarding notice and hearing.
- (g) Identification of Signs.** Every sign for which a permit is required shall be plainly marked with the name of the owner, lessee or the sign company erecting and maintaining the sign and shall have affixed on the front thereof or on some other location so as to be conspicuous and easily identifiable from an adjacent public street an individually numbered sticker, tag or token provided by the city.

SECTION 4606--SIGN COMPANIES

(a) License Required. Any person wishing to engage in leasing or erecting signs for any other person shall first obtain a license from the Sign Administrator to do so.

(b) License Fee. Any person required to obtain a license under the terms of this section shall pay an annual license fee of \$400.00.

(c) Address and Agent for Service of Process. Any person who is required to obtain a license under the terms of this section shall at all times maintain an office within the sign code application area, the current address of which is recorded with the Sign Administrator, or shall appoint and file of record with the Sign Administrator an agent within the sign code application area for service of process.

(d) Insurance. Each person licensed under the terms of this section shall submit evidence that the performance of work in connection with each sign will be covered by approved public liability and property damage insurance in the amount of \$100,000.00 for any person injured, \$300,000.00 for injury to more than one person and \$100,000.00 for property damage. Such policies of insurance shall be in a form selected or approved by the City Attorney and shall indemnify the City of Houston from all claims for personal injury, death or property damage arising from the construction or maintenance of the sign for which the permit is issued. Such policies of insurance shall be issued by an insurance company duly authorized to do business and issue such policies of insurance in the State of Texas and maintaining an office or represented by an authorized agent in the State of Texas and shall require that the insured give 10 days' written notice to the Sign Administrator before cancellation of the policy. Whenever any policy of insurance is cancelled, the Sign Administrator shall require that all work to which such policy applies be stopped immediately.

(e) Removal Bond. Each person licensed under the terms of this section shall furnish a bond in the amount of \$25,000.00 in a form determined by the City Attorney, or post a deposit in such amount, as a guaranty of compliance with this chapter and other applicable laws, including the removal of signs when required.

(f) Electrical Sign Contractor. Each person licensed under the terms of this section whose operations include signs that in any manner include the use of electricity shall adhere to the requirements of the City of Houston Electrical Code and shall pass such examinations and tests and hold such licenses and permits as are required thereunder.

(g) Vehicle Identification. Each person engaged in the leasing or erecting of signs shall identify all vehicles used by employees in connection with installing, erecting and maintaining signs with the name of their company and their license number. Such information shall be set out on each side of the vehicle in clearly

SECTION 4607--MAINTENANCE, SAFETY, REMOVAL

(a) Maintenance. All signs shall be kept in good repair and, unless of galvanized or noncorroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary, consistent with good maintenance. All braces, bolts, clips, supporting frames and fastenings shall be free from deterioration, termite infestation, rot or loosening. All signs shall be able to withstand safely at all times the wind pressure specified in Section 4609(a)(2). In case any sign is not so maintained, the Sign Administrator shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.

(b) Unsafe Signs. Should any sign, in the opinion of the Sign Administrator, become insecure or in danger of failing, or otherwise unsafe, the Sign Administrator shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign. Said person so notified shall correct the unsafe condition of the sign in a manner to be approved by the Sign Administrator in conformity with the provisions of this chapter.

(c) Unlawful Signs. It shall be unlawful to install, erect, construct, reconstruct, alter, relocate, maintain or use any sign in violation of any of the terms of this chapter. Any such violation shall subject the owner, lessee, or person responsible for said sign to citation to Municipal Court by the Sign Administrator; shall subject the owner, lessee, or person responsible for said sign to the process set out in subsection (d) of this section for removal of the sign, revocation of permit, and forfeiture of removal bond; and shall subject the owner, lessee, or person responsible for said sign to any other enforcement process available under this chapter or otherwise available under the law. In addition to these enforcement remedies, the Sign Administrator may give written notice to the owner, lessee or person responsible for said sign ordering said owner, lessee or person to alter the sign so as to comply with this chapter or to remove the sign within a specified period of time, not to exceed ten working days, exclusive of Saturdays, Sundays, and holidays observed by the closure of City offices. For portable and banner signs, the specified period shall not exceed 72 hours; provided, however, that such violation does not create an immediate threat to the public safety. In the event that the Sign Administrator determines that the sign poses an immediate threat to the public safety, the notice period shall not exceed 24 hours. The provisions of this subsection shall not apply to signs on the public right-of-way, which shall be governed by the provisions of Section 4608(c).

(d) Removal of Signs. Any written notice to alter or to remove a sign installed, erected, constructed, reconstructed, altered, relocated, maintained or used in violation of any of the terms of this chapter shall be given by the Sign Administrator by certified mail or written notice served personally upon the owner, lessee or person responsible for the sign, or the owner's agent. For those non-compliant signs for which a permit has been issued, if such order is not complied with within ten days of the posting or service of such notice, the Sign Administrator

SECTION 4608--MISCELLANEOUS SIGN PROVISIONS

(a) Displays and Certain Banners. Seasonal-holiday displays and banners as described in Section 40-30 of the City Code, and similar temporary displays erected without advertising shall not be subject to the provisions of this chapter, but shall be subject to the Fire Code and rules and regulations for fire safety promulgated by the fire marshal.

(b) Special Event Banners. Special event banners, as defined in Section 40-31 of the City Code, shall not be subject to the provisions of this chapter, but shall be subject to the Fire Code and rules and regulations for fire safety promulgated by the fire marshal.

(c) Signs on Public Rights-of-way.

- (1)** With the exception of signs lawfully permitted or erected prior to the effective date, it shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb or other public improvement in any public street or grounds, on any public bridge or part of same, or on any public building or structure of any kind belonging to the city, or in any public place or on any public improvement unless express consent therefor shall have been first granted by the City Council. This subsection does not apply to public property leased for private business purposes.
- (2)** Any unlawful sign found within a public right-of-way of a public street, public sidewalk or public alley shall be seized, and removal thereof is hereby authorized. The employees of the Police Department, the Planning and Development Department, the Solid Waste Management Department and the Department of Public Works and Engineering are hereby authorized to impound any signs found on a public street, public sidewalk or public alley and transport or cause the same to be transported to a location to be designated by the Sign Administrator for storage. The custodian of the storage area shall maintain records of where such signs were located when they were so impounded and the date on which they were so impounded and shall hold the same in the storage area for a period of not more than 30 days. Any signs so held may be redeemed by the owner thereof upon the payment of a fee to the City through the custodian thereof, consisting of a total of \$50.00 for hauling the same to storage, plus \$10.00 per day storage fee for each day the sign is stored. Such fee shall be in addition to and not in lieu of any fine imposed upon such owner for violation of this chapter. Any sign impounded and stored and not redeemed by the owner thereof within 30 days may be transferred to the Surplus Section of the Property Management Division of the Finance and Administration Department of the City of

(i) Signs Not to Create Easements. No permit for a sign extending beyond private property onto a public street, public sidewalk or public alley shall constitute a permanent easement, and every such permit shall be revocable at any time by action of the City Council, and the City shall not be liable for any damages to the owner by reason of such revocation.

(j) Change of Ornamental Features or Advertising Display. No sign permit is required for the change of any of the ornamental features or the advertising display of a sign previously permitted. This provision shall not apply to signs under new ownership, to spectacular signs with respect to advertising display, or to converting existing signs to electronic signs, high technology signs, or changeable message signs, nor shall it release a person from complying with all other applicable permitting requirements of the City, including those of the Construction Code.

(k) Signs Obscuring or Interfering with View. Signs may not be located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or so as to obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic, or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street.

(l) Proper Shielding of Lighted Signs--Interference with Drivers of Motor Vehicles. Signs containing lights that are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way from which the sign is primarily viewed and that are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or that otherwise interfere with any driver's operation of a motor vehicle, are prohibited.

(m) Spectacular Signs. Spectacular signs are prohibited.

(n) Visibility Triangle. Within the area of a visibility triangle, no part of the face of a sign shall be lower than a height of 8 feet above grade level of the nearest street.

(o) Flag Signs. Flag signs shall conform to the applicable requirements of Section 4609, including the height requirements of Table 4609. Flag signs shall be counted as ground signs for the purposes of Section 4611(b), notwithstanding their method of attachment, display or installation upon the building or premises where they are located. All flag signs must be permitted; however, one flag sign per frontage, with a maximum of two per business, shall be exempted from the total allowable on-premise sign limitations of Section 4611(b), and such signs shall be exempted from the requirement of operating permits only. Provided, however, all flag signs shall comply with the height requirements set forth in Table 4609 and the structural requirements set forth in Section 4609.

SECTION 4609--STRUCTURAL REQUIREMENTS**(a) Design.**

- (1) **General.** All signs and sign structures shall be designed and constructed to resist wind forces as specified in this section and Chapter 16 of this Code. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such manner as not to overstress any of the elements of the building.

The overturning moment produced from lateral forces shall in no case exceed two-thirds of the dead-load-resisting moment for all signs. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building for all signs. The weight of earth superimposed over footings may be used in determining the dead-load-resisting moment. Such earth shall be carefully placed and thoroughly compacted.

The allowable stresses in wire ropes and steel guy rods and their fastening shall not exceed one-fourth of their rated tensile strength.

- (2) **Wind loads.** All signs and sign structures shall be designed to resist wind loads as prescribed in wind design requirements of Chapter 16 of this Code.
- (3) **Vertical design loads.** Vertical design loads, except roof live loads, shall be assumed to be acting simultaneously with the wind loads.
- (4) **Working stresses.** All signs shall be designed to conform with the requirements of this Code regarding allowable working stresses. The working strength of chains, cables, guys or steel rods shall not exceed one-fifth of the ultimate strength of such chains, cables, guys or steel rods.

(b) Construction.

- (1) **General.** The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of this Code.
- (2) **Materials.** Materials for construction of all signs and sign structures shall be of the quality and grade as specified for buildings in this Code and be consistent with the City of Houston Fire Code.

- (9) **Glass thickness.** Glass thickness and area limitations shall be as follows:

SIZE, THICKNESS AND TYPE OF GLASS PANELS IN SIGNS			
Maximum Size of Exposed Glass Panel Any Dimension Area		Minimum Thickness of Glass (In Inches)	Type of Glass
(in inches)	(in square inches)		
30	500	1/8	Plain, Plate or Wired
45	700	3/16	Plain, Plate or Wired
144	3,600	1/4	Plain, Plate or Wired
Over 144	Over 3,600	1/4	Wired

(c) **Electrical Requirements.**

- (1) All electrical fixtures, equipment and appurtenances installed in conjunction with a sign shall be designed and installed in accordance with the City of Houston Electrical Code.
- (2) With the exception of electrical signs covered by the provisions of Section 4611(c)(3), all electrical signs shall be limited to bulbs of 150 watts for bulbs located in the face of the sign. Signs shall have electrical circuits limited to the normal voltage used in most commercial buildings, shall contain a sunshade screen dimmer, and shall not use reflectorized lights as part of the face of the sign. For the purpose of this section, "reflectorized lights" shall mean any lamp constructed with reflector-type materials so as to focus, intensify, flood or spot such lamp in a certain direction, including, but not limited to, lamps designated by the manufacturers as flood, spot, reflector flood, reflector spot, reflector light or clear reflector.

(d) **Use of Plastic Materials.**

- (1) For the purpose of this subsection, the following definitions shall apply:

DISPLAY SURFACE shall mean the entire surface of a sign, on one side, devoted to exhibiting or contrasting exhibits of advertising. The display surface shall generally include the entire sign surface except for the sign frame and incidental supports thereto.

SIGN FACING or **FACING** shall mean a separate and distinguishable portion of the overall display surface.

Exception. The height limit of 42½ feet for signs in the central business district shall not apply to a headquarters logo sign that meets each of the following criteria:

1. The sign may display only the registered trademark or a portion of the registered trademark of the principal occupant of a headquarters building. For purposes of this requirement, a headquarters building is a structure that has 750,000, or more, square feet of gross usable floor space, provided that at least 45 percent of the gross usable floor space is occupied by the holder of the registered trademark as the headquarters for its operations in the world, within the United States, or within a region of the world that includes all of the United States.
2. The sign shall be displayed upon the surface structure of the headquarters building. The display may be created by light projection, video projection, laser technology, or other technology that causes the image to appear upon the surface structure of the building and shall appear upon the roof structure, a parapet wall, or other building surface that is situated above the highest occupiable story of the building. The sign shall be visible only between sunset and sunrise. The sign may utilize projection equipment or other light sources that are not readily visible from ground level but shall not utilize any conventional sign cabinet or structure.
3. Evidence must be provided with the sign permit application that (i) the entity to be represented on the sign is the principal occupant of the headquarters building, meaning that it occupies more space within the building than any other occupant, (ii) that the criteria set forth in Item (1) above are applicable, and (iii) that the building owner accepts and agrees to the removal requirement specified below. The building owner's agreement to remove the sign shall be accompanied by evidence of title demonstrating ownership of the building, shall be in the form of a covenant running with the title to the property that is approved by the city attorney, and shall be recorded at the applicant's expense in the real property records of Harris County.
4. The sign illumination must be a continuous image that is not blinking or animated in any manner.

shall be subject to the least restrictive requirements established for signs of any category of right-of-way from which the sign is visible and along which the sign is located.

(f) Method of Determining the Area of a Sign. In determining the area of any sign, the dimensions of the rectangle enclosing the signboard, excluding the supporting structure, shall be used. In measuring ground signs with more than one cabinet, each cabinet will be circumscribed. If the sign includes cutouts or facings extending beyond the dimensions of the rectangular signboard, the measurement of the sign area shall include the actual area of the cutout or extended facings. For signs of a double-faced, back-to-back or V-type nature, each face shall be considered a separate sign in computing the face area.

No on-premise, "single business sign," as that term is defined in Section 4609(e)(5), shall be comprised of more than three cabinets when being circumscribed as one ground sign with visible air space between cabinets.

(g) Clearances.

- (1) Clearances from high voltage power lines shall meet the distances prescribed in the National Electrical Safety Code in the version adopted in the City of Houston Electrical Code, a copy of which is on file in the City Secretary's Office.
- (2) No portion of a sign or sign structure shall project into any public alley unless said portion is a minimum of 14 feet in height above grade.

(h) Fire Prevention Requirements.

- (1) For the purposes of this section, the following definitions shall apply:

NONCOMBUSTIBLE MATERIAL shall mean material no less flammable than steel, iron, or other similar metal, or as the term shall be otherwise defined by the City of Houston Fire Code or this Code, or by the Sign Administrator, "noncombustible material" shall include "incombustible" material.

COMBUSTIBLE MATERIAL shall mean material more flammable than metal, but no more flammable than wood or "approved plastics," as that term is defined in Section 4609(d)(2); no material more flammable than wood or approved plastic shall be used in any sign.

- (2) When signs are required herein to be constructed of noncombustible material, all parts of such signs, including the sign structure, shall be

shall be embedded at least 5 inches. Wood blocks shall not be used for anchorage, except in the case of wall signs attached to buildings with walls of wood. A wall sign shall not be supported by anchorages secured to an unbraced parapet wall.

(k) Roof Signs.

- (1) All on-premise roof signs shall be so constructed as to display no space between the top of the roof and the lowest part of the sign. In addition, no portion of any roof sign structure shall project beyond an exterior wall.
- (2) Every roof sign affixed to a rated building shall be constructed entirely of steel, including the upright supports and braces. Roof signs shall not be located on any roof in such a manner that the location would impede access to any portion of the roof by Fire Department personnel.
- (3) The bearing plates of all roof signs shall distribute the load directly to or upon masonry walls, steel roof girders, columns or beams. The building shall be designed to avoid overstress of these members.
- (4) All roof signs shall be thoroughly secured to the building upon which they are installed, erected or constructed by iron, metal anchors, bolts, supports, chains, stranded cables, steel rods or braces, and they shall be maintained in good condition as set forth in Section 4607(a).

(l) Projecting Signs.

- (1) All projecting signs shall be securely attached to a building or structure by metal supports such as bolts, anchors, supports, chains, guys or steel rods. Staples or nails shall not be used to secure any projecting sign to any building or structure.
- (2) The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported with chains, guys or steel rods having net cross-sectional dimension of not less than 3/8 inch in diameter. Such supports shall be erected or maintained at an angle of at least 45 degrees with the horizontal to resist the dead load and at an angle of 45 degrees or more with the face of the sign to resist the specified wind pressure. If such projecting sign exceeds 30 square feet in one facial area, there shall be provided at least two such supports on each side of the sign not more than 8 feet apart to resist the wind pressure.

during transport. All such hitching equipment shall also comply with all applicable federal, state and local laws regulating same.

- (3) Every portable sign not in transit shall be securely anchored to the ground by cables, ground supports or other means acceptable to the Sign Administrator to prevent overturning in high winds.
- (4) Portable signs shall for the purposes of this chapter be considered nonmobile, nonportable ground signs and thereby are subject to all provisions of this chapter, including the structural requirements, spacing requirements, permitting and fee requirements, on-premise and off-premise provisions, and all other provisions of this chapter applicable to ground signs unless a provision that applies by its terms to portable signs is in conflict with a provision applying to ground signs, in which case the provision applying specifically to portable signs would control.

(o) Signs of V-type or Back-to-back Construction.

- (1) The angle between the faces of V-type signs shall be no greater than 45 degrees measured back to back and if the area of each face is 300 square feet or less, the maximum distance at the nearest point between the two backs, as measured at the apex, shall not exceed 1 1/2 feet; if the area of either face exceeds 300 square feet, then the maximum distance between the two backs, as measured at the apex, shall not exceed 3 1/2 feet.
- (2) Back-to-back signs must be on common supports, and if the area of each is 300 square feet or less, then the nearest point between the two backs shall not exceed 5 feet plus the diameter of the intervening upright or support.

(p) Flag Signs. Flag signs shall meet all requirements for flag pole structures set forth in the Guide Specifications for Design Loads of Metal Flag Poles published by the National Association of Architectural Metal Manufacturers Manual (NAAMM Standard F P-1-86, Second Edition).

SECTION 4610--DESIGNATION OF SCENIC OR HISTORICAL RIGHTS-OF-WAY OR DISTRICTS

(a) This section shall govern the designation of scenic or historical rights-of-way or districts within the sign code application area. The provisions of this section shall not apply to signs lawfully erected and lawfully existing on the date of creation of any scenic or historical right-of-way or district that are on the Federal Primary System and subject to regulation under the provisions of Chapter 391 of the Texas Transportation Code, including all amendments (the Texas Act), or are subject to regulation under the Federal Highway Beautification Act, 23 U.S.C.A. Section 131, et seq., including all amendments (the Federal Act).

(b) Citizens of the sign code application area may petition the City Council of the City of Houston to designate any area or any public right-of-way within the sign code application area as a scenic or historical right-of-way or district.

(c) Any such petition must meet the following requirements to be considered by the City Council.

- (1) Contain the signatures of property owners whose property fronts on either side of the right-of-way proposed for designation or who own property in the area proposed for designation as a district and who represent 20 percent of the total front footage along the right-of-way or 20 percent of the total area; and
- (2) Contain the signatures of at least 1,000 citizens of the sign code application area, each of whom was above the age of 18 years old when signing the petition; and
- (3) Indicate that the signatures thereon were collected within a 60-calendar-day period; and
- (4) Indicate that the signatories thereon desire the area or right-of-way to be designated a scenic or historical right-of-way or district.

(d) Any such petition must be submitted to City Council within 90 calendar days of the date of the first signature thereon.

(e) Following the filing of any such petition with the City Secretary, the City Council shall, within 45 days of the date of filing, conduct a public hearing to consider the merits of the petition.

(f) The City Secretary shall give notice as to the filing of any such petition and the date, time and place of the City Council hearing by posting same, at least 14 days in advance of such hearing, at a place convenient to the public in the City Hall.

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~~(k) Designation of a historic district under Article VI of Chapter 33 of the City Code, does not constitute a designation under this section.~~

SECTION 4611--ON-PREMISE SIGNS

(a) On-premise Sign Provisions. The provisions of this section shall apply only to "on-premise signs," as that term is defined in Section 4603(a), within the sign code application area.

(b) On-Premise Sign Limitations.

- (1)** No business shall have more than a total of five on-premise signs, provided, however, that each business may select any combination of the signs described below in this subsection to reach that total:
 - a.** Each business shall place no more than one on-premise ground sign or projecting sign per frontage. However, if a business has more than 350 feet of frontage, two on-premise ground signs, projecting signs, or a combination of these signs that totals two, will be allowed along the frontage; provided, however, that the two signs shall be spaced a minimum of 350 feet apart as measured parallel to the frontage. The total number of signs from all of the foregoing sign classifications shall not exceed two in number for each business.
 - b.** Each business shall place no more than four on-premise roof signs, wall signs, or combination of roof and wall signs.
 - c.** Roof signs, designed to be architecturally compatible with the building. Wall signs shall not occupy more than 50 percent of the total wall surface. Wall signs shall not extend above the roofline of the building to which they are attached.
 - d.** On-premise projecting signs shall not extend above the uppermost portion of the building to which they are attached except as provided in Section 4609(1)(5).
 - e.** Each business shall place no more than three on-premise marquee signs.
- (2)** With the exception of on-premise signs lawfully permitted or erected prior to the effective date, all on-premise signs and sign structures shall be contained wholly within the premises upon which they are located and shall not extend onto the public right-of-way, provided that on-premise projecting signs may extend up to 10 feet outward from the building to which they are attached, as long as such extension is no closer than 2 feet behind the curb line.

(f) Special Employment Districts.

- (1)** ~~Notwithstanding any other provision or provisions of this code to the contrary, on-premise ground signs located in a special employment district shall comply with the provisions of this subsection.~~
- (2)** A special employment district may not contain on the average more than two on-premise ground signs per acre.
- (3)** An on-premise ground sign may be erected and maintained in a special employment district if each of the following requirements is met:

 - a.** The sign only provides directions to or identifies sites or locations of facilities within the special employment district.
 - b.** The sign identifies that the sign itself and the sites or locations are situated within the special employment district. Such identification may be by use of words or graphic representations such as logos, symbols or insignia. Graphic representations that are used on such signs shall not occupy more than 10 percent of the total area of a sign face.
 - c.** The sign complies with all other provisions of this chapter relating to size, construction, safety and maintenance other than the number restriction provided in this subsection.
 - d.** The City's Traffic Engineer finds that the system of on-premise ground signs within the special employment district will facilitate the movement of vehicular and pedestrian traffic in the public streets and sidewalks adjacent to the special employment district.
- (4) Designation procedures.**

 - a.** Any person may petition the City Council to designate an area of the City as a special employment district. The petition shall contain the following:

 - 1.** The signatures of 90 percent of the property owners of the total area of the tracts within the proposed district.
 - 2.** A verified statement by such property owners that the area to be included in the district has the characteristics

(g) Identifying Number Required. Each business premises containing one or more on-premise ground signs shall have an identifying number posted and maintained on at least one on-premise ground sign structure. For purposes of this subsection, the term "identifying number" shall mean the address number for that business premises assigned by the building official, or where no such has been assigned by the building official, any number, letter or number and letter combination that is distinct from any other number, letter or number and letter combination used on the same premises. All numbers that are to be posted and maintained on an on-premise ground sign shall be:

- (1) Permanently affixed to the outside of the sign;
- (2) Of a color that is in contrast to the background; and
- (3) At least 3 inches in height.

(h) Changeable Message and High Technology Signs. Save and except for signs erected pursuant to the provisions of Section 4620, the following provisions shall apply to all existing and new changeable message and high technology signs:

- (1) Blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating, or spot lights are prohibited.
- (2) Lights or colored elements creating a continuously moving, shimmering, or prismatic effect, or the use of rotating or moving parts in association with such lights or colored elements, are prohibited.
- (3) A changeable message sign may not change the message more often than every five minutes and must change the message within one second or less; a high technology sign may not change the message without a new permit.
- (4) Brightness limits shall be set at a maximum of 6500 nits between sunrise and sunset, and at a maximum of 1250 nits between sunset and sunrise, and each sign shall be fitted with a qualified light sensing device to automatically adjust the brightness in accordance with these standards.

(i) Additional On-Premise Sign Provisions. Beginning September 1, 2009, and save except for signs erected pursuant to the provisions of Section 4620, the following additional provisions shall apply to new on-premise signs for which an initial permit is requested after said date; provided, however, that in the event of a conflict between these provisions and other provisions of this chapter (except for Section 4620), the more stringent provisions shall control.

as ground signs. For the purposes of this provision, wall signs on parking garages located on the premises of the business shall be considered for business purposes.

- c. No wall sign may extend above the supporting exterior wall unless mounted on a mansard or facade, and in any event no wall sign may extend more than ten feet above the roof line of the supporting wall.
- d. In the central business district the maximum height of a wall sign shall not exceed 42-1/2 feet.

(5) Additional restrictions for projecting signs.

- a. No projecting sign shall extend above the roof line of the supporting exterior wall.
- b. In the central business district the maximum height of a projecting sign shall not exceed 42-1/2 feet.

(6) Additional restrictions for changeable message signs.

- a. Only one changeable message sign shall be permitted per business.
- b. Save and except for a changeable message sign located at a school, no changeable message sign shall be located on a local street.
- c. Save and except for a changeable message sign located at a school, no changeable message sign located on or facing a collector street shall be permitted within 150 feet of the property line of a single family residence.
- d. For a changeable message sign located on or facing a collector street, that portion of the sign where the changeable message is located shall not exceed in height those standards for Category A signs contained in Table 4611.
- e. That portion of the face of a changeable message sign devoted to changing the message shall be limited in area to fifty percent of the area of the sign face allowable under Table 4611, not to exceed 100 square feet.

SECTION 4612--OFF-PREMISE SIGNS

(a) Off-premise Sign Provisions. The provisions of this section shall apply only to "off-premise signs," as that term is defined in Section 4603(a), within the sign code application area.

(b) Prohibition of New Off-premise Signs.

- (1)** From and after the effective date, no new construction permits shall be issued for off-premise signs within the sign code application area. This prohibition shall apply to all classifications of signs, types of signs, and special function signs, and all other signs used as off-premise signs, including portable signs, with the exception that off-premise signs that advertise the sale or rental of real property or direct persons to the location of real property for sale or rental, which signs shall be limited to 40 square feet in area, shall continue to be permitted for a single three-year term.
- (2)** Electronic and off-premise high technology signs are prohibited. This prohibition shall include the construction, reconstruction, upgrading, or conversion of an existing off-premise sign to an electronic or off-premise high technology sign, such that no electronic or off-premise high technology signs are permitted.

(c) General Location.

- (1)** All off-premise signs shall be located within 800 feet of a commercial or industrial activity.
- (2)** No off-premise sign shall be located in a predominantly residential area.
- (3)** No off-premise sign shall be erected, constructed or established such that the face of the structure may be viewed from a scenic or historical right-of-way or district.
- (4)** All off-premise signs other than those located on the Interstate and Freeway Primary System shall be subject to the following spacing requirements from other off-premise signs on the same side of the public right-of-way (see Table 4612):
 - a.** No off-premise sign having a face area in excess of 300 square feet shall be located within 400 feet of another off-premise sign.

the same side of the street. In measuring the distance from back-to-back and V-type signs, the measurements shall be made from the street end of the nearest sign on the back-to-back or V-type structure.

(d) Location on Property. All off-premise signs and sign structures shall be within the deeded front building line, or if no such line exists, within the property line, but in no event closer than 20 feet to the curb of any public street.

(e) Removal of Off-premise Signs from Scenic and Historical Rights-of-way and Districts. With the exception of off-premise signs lawfully erected and lawfully existing on the effective date that are on the Federal Primary System and subject to regulation under the provisions of Chapter 391 of the Texas Transportation Code, including all amendments, or are subject to regulation under the Federal Highway Beautification Act, 23 U.S.C.A. Section 131, et seq., including all amendments, all existing off-premise signs located on existing scenic and historical rights-of-way and districts shall be removed by the owner at the owner's expense six years after the date of designation of the scenic or historical area or district.

(f) Construction of Certain Off-premise Sign Structures. All off-premise sign structures constructed, established or erected after May 1, 1975, that are not located on the Interstate and Freeway Primary System shall be supported by not more than three steel columns or three columns of material that is of the strength equal to or stronger than steel, if the face area of the sign is over 300 square feet. If the face area of any such sign is 300 square feet or less, the structure shall be supported by not more than two steel columns or two columns of material that is of strength equal to or stronger than steel. This provision applies from May 1, 1975, to such structures resulting from the conversion of side-by-side or stacked structures with a combined face area of 700 square feet or less.

(g) Visibility Triangle. Within the area of a visibility triangle, no part of the face of an off-premise sign shall be lower than a height of 8 feet above the grade level of the nearest street.

(h) Abandonment of Off-premise Sign Structures. Any off-premise sign structure lawfully erected and maintained that has no copy, transcript, reproduction, model, likeness, image, advertisement or written material for a period of 120 consecutive days is hereby declared to be a violation of this section, and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the Sign Administrator of such violation. If the owner or permittee fails to restore the off-premise sign structure to use or remove the abandoned off-premise sign structure within the specified 30 days, the sign company that received a permit for the sign shall be deemed to have forfeited the removal bond required by Section 4606(e) and the Sign Administrator shall use the proceeds to remove the abandoned off-premise sign structure.

SECTION 4613--IMPLEMENTATION IN AREA OF EXTRATERRITORIAL JURISDICTION

NOTE: *This section is readopted by reference to its former codification in Ordinance 93-554; however, it is not reprinted in this Code. This section establishes an implementation schedule for signs that were in the City's area of extraterritorial jurisdiction on May 31, 1985.*

SECTION 4614--APPLICATION OF FIRE CODE AND CONSTRUCTION CODE

The various provisions of the Construction Code and of the City of Houston Fire Code shall, to the extent that they are incorporated by reference in this chapter, be applicable to signs located or constructed within the area of the City's extraterritorial jurisdiction established by Section 42.021 of the Local Government Code with the same force and effect as if they were located within the corporate limits of the City.

SECTION 4615--PENAL PROVISIONS IN AREA OF EXTRATERRITORIAL JURISDICTION

Any penal provision of:

- (1) This chapter;
- (2) Any other provision of the Construction Code, to the extent that it relates in any manner to the location, maintenance or construction of signs and is incorporated by reference in this chapter; and
- (3) The City of Houston Fire Code, to the extent that the provisions thereof relate in any manner to the location, maintenance or construction of signs and are incorporated by reference in this chapter;

shall apply to offenses arising within the City of Houston's area of extraterritorial jurisdiction as established by Section 42.021 of the Local Government Code in the same manner as to offenses arising within the corporate limits of the City of Houston. The municipal courts of the City of Houston shall have jurisdiction over all criminal cases arising under the foregoing provisions within the City of Houston's area of extraterritorial jurisdiction as established by Section 42.021 of the Local Government Code in the same manner as for criminal cases arising under ordinances of the City of Houston within its corporate limits.

SECTION 4616--MUNICIPAL BOARD ON SIGN CONTROL

(a) Definitions. The following definitions shall apply to this section:

ACT shall mean Chapter 221, Acts of the 69th Legislature of the State of Texas, Regular Session (1985), which has been codified in part as Chapter 216 of the Local Government Code.

AREA OF EXTRATERRITORIAL JURISDICTION shall mean the area of the City of Houston's extraterritorial jurisdiction as defined by Section 42.021 of the Local Government Code.

BOARD shall mean the Municipal Board on Sign Control of the City of Houston.

(b) Organization.

- (1) Notwithstanding any other City of Houston ordinance to the contrary, members of the board may be persons who reside either within the corporate limits of the City of Houston or within the area of extraterritorial jurisdiction. Additionally, the member of the board who is an employee of the Texas Department of Transportation is not required to be a resident of the City of Houston or the area of extraterritorial jurisdiction.
- (2) Three members of the board at a meeting shall constitute a quorum.
- (3) Members of the board shall serve for a term of two years. The Mayor shall designate a member to be chairman of the board.

(c) Compensation. Each member of the board, with the exception of the member who is an employee of the Texas Department of Transportation, shall be compensated at the rate of \$15.00 per hour for each hour he attends a meeting at which a quorum is present. Fractions of an hour shall be prorated, to the nearest quarter hour, for purposes of computing a member's compensation.

(d) Duties. The duties of the board shall be those authorized by Article 1 of the Act.

(e) Procedures. The board shall adopt such rules and procedures as may be necessary or desirable for the conduct of its duties, consistent with the requirements of Article 1 of the Act. Appeals from decisions of the board shall be made according to the procedures provided in Article 1, Section 7 of the Act.

SECTION 4617--SPECIAL PERMIT

~~(a) A special permit shall be issued for the alteration or relocation of an existing off-premise sign situated within the Sign Code application area under the following limited circumstances:~~

- (1)** The sign to be altered or relocated must be situated, both before and after its alteration or relocation, along the federal primary system and be subject to control under Subchapter B of Chapter 391 of the Texas Transportation Code.
- (2)** The alteration or relocation of the sign must be required for a publicly funded transportation system improvement project being undertaken by the State of Texas or a political subdivision of the State of Texas. The decision to offer the sign owner the option of seeking a special permit to alter or relocate a sign pursuant to this section shall be at the discretion of the undertaking unit of government. In determining whether to make such an offer, the governmental unit shall take into consideration the probable cost of compensating the sign owner, in conjunction with the probable costs of compensating other sign owners affected by the project, as it relates to the economics and timeliness of the completion of the project and its effect on the public interest.
- (3)** The sign to be altered or relocated must be a sign that has been lawfully constructed and maintained in accordance with all applicable state and local regulatory and permit requirements, and it must have been constructed and maintained with the permission of the person or persons owning the tract or parcel of land upon which it is situated.
- (4)** The sign must be situated after its alteration or relocation according to the following priority:
 - a.** First, upon the remainder of the same tract or parcel of land upon which it was situated before its alteration or relocation, if any; or
 - b.** Second, if there is no remainder or if the remainder is not of sufficient size or suitable configuration for the alteration or relocation of the sign, then upon the property abutting the highway at the original sign location or upon the property abutting the insufficient remainder, if available; or
 - c.** Third, upon another tract or parcel of land owned by the same person or persons as the tract from which it was relocated; or

they shall not be entitled to the refund of any portion of the cash bond or any interest thereon.

- (11) Notwithstanding Section 4605(e)(3), a sign lawfully erected under a special permit that is blown down or otherwise destroyed by any casualty may be replaced for the remainder of the ten-year period during which the special permit is in effect, provided that it is rebuilt at the same location, height, size and dimensions, and with the same materials and configuration as originally altered or relocated pursuant to the special permit.
- (12) Each application for a special permit shall be referred by the Sign Administrator to the Texas Department of Transportation together with the complete plans and specifications for the alteration or relocation of the sign and any other data that may be required by the said department to determine compliance with its applicable regulations. No special permit shall be granted unless an authorized representative of the Texas Department of Transportation certifies in writing that the proposed alteration or relocation of the sign will comply with all applicable state laws, rules and regulations.
- (13) Each application for a special permit must be signed by the owner of the sign and the owner of the property upon which it is to be altered or relocated, who shall each certify that all applicable provisions of this section have been complied with, and be accompanied by written consent to the alteration or relocation of the sign, signed by the duly authorized representative of the unit of government undertaking the transportation system causing the need for the sign to be altered or relocated.

(b) Fees for special permits shall be as otherwise provided in Section 117 of this Code. The operating permit for a sign altered or relocated pursuant to a special permit issued under this section shall transfer to the sign as altered or relocated. During the period that the special permit is in effect, operating permits for signs altered or relocated pursuant to this section shall be extended for three-year periods in accordance with Section 4605(d), provided that, notwithstanding any language to the contrary contained in any operating permit extension issued for a sign altered or relocated under a special permit, no operating permit extension shall be construed to authorize the continued existence, operation or maintenance of any such sign for any period in excess of ten years following the date of issuance of the special permit. The provisions of this section shall not be deemed to authorize any practice otherwise prohibited under this chapter, except to the limited extent and under the limited circumstances enumerated in this section. Nothing contained in this section shall be construed to abrogate the right of a sign owner or underlying property owner to refuse to accept the proposal by the governmental unit for the

SECTION 4618--RENEWAL OF OPERATING PERMITS

***NOTE:** This section is readopted by reference to its former codification in Ordinance 93-554; however, it is not reprinted herein. The section established a staggered issuance schedule for sign operating permits*

SECTION 4619--ABATEMENT OF OFF-PREMISE SIGNS

(a) Authority. To the extent of any conflict, the provisions of this section will take precedence over any other provision contained in this chapter.

(b) Declared Nonconformity. All off-premise signs within the sign code application area are hereby declared to be nonconforming and unauthorized. The subject signs shall be removed following amortization as provided in Article 1, Section 6(k) of Chapter 221, Acts of the 69th Legislature, Regular Session, 1985.

(c) Exclusion. The provisions of this section shall not be construed to require the removal of a structure that is used exclusively and at all times (except when there is no copy at all on the structure) for messages that do not constitute advertising, including, but not limited to, political messages, religious or church related messages, public service, governmental and ideological messages and other copy of a nature that is not commercial advertising because such a structure is not a "sign" (either on-premise or off-premise), as that term is defined, for purposes of this chapter and is not subject to regulation under this chapter. A structure that is subject to regulation under this chapter may contain non-commercial messages in lieu of or in addition to any other messages, but the structure shall not be exempt from regulation as a sign under this chapter unless used exclusively and at all times as provided above for non-commercial messages.

(d) Signs Protected by State or Federal Law. The provisions of this section shall not be construed to require the removal by amortization of any off-premise sign if its removal by amortization, without other compensation, would contravene state or federal law. Any determination under this section shall be made on the basis of the law in effect at the time of the proposed removal of the off-premise sign, and this subsection shall not prohibit placing any off-premise sign under amortization. To the extent that funds are available for that purpose the city reserves the right to purchase any off-premise sign that is protected by law from removal by amortization.

(e) Previously Nonconforming Signs. The provisions of this section shall not be construed to excuse or delay the removal of any off-premise sign that is nonconforming under any other provision of this chapter; and it has been the intent of the City Council in adopting this section that each and every off-premise sign within the sign code application area be removed by amortization as soon as permitted by state and federal law.

SECTION 4620--SPECIAL DISPLAY SIGNS AT CERTAIN FACILITIES

(a) Definitions. The following definitions shall apply to this section:

COUNTY COMPLEX shall mean a sports, convention, and entertainment complex of more than 300 acres of land owned by a county, with three or more buildings housing three or more venues that collectively attract more than 2,000,000 visitors per year.

COUNTY COMPLEX DISPLAY SIGN shall mean an on-premise sign at a county complex that displays automatically changing information, changes more often than once every five minutes, and advises viewers as to the name, time, sponsor or other information related to sports or other entertainment or convention events to be held at such county complex, provided that:

- (1) No change in illumination produces an apparent motion of the visual image, including, but not limited to, illusion of moving objects, moving patterns or bands of light, expanding or contracting shapes, rotation, scrolling, or any similar effect of animation;
- (2) No change of message or picture occurs more often than once every 3 seconds for those portions of a sign that convey date, time, and temperature information brief weather reports, or stock market quotations, more often than every 10 seconds for those portions of a sign that contain traffic or directional information, or more than once every 20 seconds for all other information on the sign;
- (3) No portion of the sign, as measured within any circular area of two feet in diameter, has a luminance greater than 200 foot-lamberts when all elements of the sign are fully and steadily illuminated; and
- (4) The authorized display sign shall not exceed 700 square feet in size and may be constructed as a stand-alone sign or as a contiguous component of a larger sign.

EAST SIDE SPORTS AND CONVENTION COMPLEX DISTRICT shall mean the area contained within the following metes and bounds description:

Thence in a northeasterly direction along the center line of the right-of-way of Labranch Street to its intersection with the center line of the right-of-way line of Polk Avenue,

Thence in a southeasterly direction along the center line of the right-of-way line of Polk Avenue to its intersection with the center line of the right-of-way of Crawford Street,

Thence in a northeasterly direction along the center line of the right-of-way of Crawford Street to its intersection with the center line of the right-of-way of Lamar Avenue,

Thence in a southeasterly direction along the center line of the right-of-way of Lamar Avenue to its intersection with the center line of the right-of-way of Avenida de las Americas,

Thence in a northeasterly direction along the center line of the right-of-way and then a projection of the center line of the right-of-way of Avenida de las Americas to its intersection with the center line of the right-of-way of Capitol Avenue,

Thence in a southeasterly direction along the center line of the right-of-way of Capitol Avenue to its intersection with the west right-of-way line of Hamilton Street,

Thence in a northeasterly direction along the west right-of-way line of Hamilton Street to its intersection with the center line of the right-of-way of Texas Avenue,

Thence in a northwesterly direction along the center line of the right-of-way of Texas Avenue to its intersection with the center line of the right-of-way of Crawford Street,

Thence in a northeasterly direction along the center line of the right-of-way of Crawford Street to its intersection with the center line of the right-of-way of Congress Avenue,

Thence in a southeasterly direction along the center line of the right-of-way of Congress Avenue to its intersection with the center line of the right-of-way of Hamilton Street to the Point of Beginning, including, without limitation, all air space above and all subsurface below said property and excluding Lots 1 through 5A of Block 164, of the City of Houston on the South Side of Buffalo Bayou.

Tract 2:

Thence in a northwesterly direction along the center line of the right-of-way of Polk Avenue to its intersection with the center line of the right of way of Main Street,

Thence in a northeasterly direction along the center line of the right-of-way of Main Street to its intersection with the center line of the right of way of Dallas Street to the Point of Beginning, including, without limitation, all air space above and all subsurface below said property.

SPECIAL FACILITY shall mean an enclosed theater, sports, or convention/trade show venue, restaurant/entertainment venue, retail venue, hotel or any combination thereof that is situated within the boundaries of the Theater District, the Retail and Entertainment District, or the East Side Sports and Convention Complex District upon land contained within the boundaries of any one or more of the districts as defined herein, including but not limited to land owned by a nonprofit organization, a governmental entity, or a for-profit entity located within and supported by a downtown tax increment reinvestment zone, provided that within the Theater District or the East Side Sports and Convention Complex District, the venue:

- (1) If a theater, seats at least 750 persons and is primarily used for live performances of a performing arts nature;
- (2) If a sports venue, seats at least 750 persons and is primarily used for professional sporting events;
- (3) If a restaurant/entertainment venue, includes one or more restaurants as well as one or more public amusement or educational features, such as carnival-type rides, zoological or horticultural exhibits or museum-type exhibits;
- (4) If either a restaurant/entertainment venue or a hotel, includes one or more ballrooms, special functions rooms, or banquet rooms that have a total combined seating capacity of 750 or more persons and are regularly made available for rent to the public with food catering for meetings, receptions, and other events; and
- (5) If a convention center complex, has over 1,500,000 gross square feet of space and is primarily used for convention/trade show functions.

A facility with a movable roof that closes shall be considered to be enclosed but parks and plazas that are not otherwise fully covered and enclosed shall not be.

- (5) The height of the sign shall not exceed the following, as applicable, when measured from the highest point on the sign to the grade-level of the ambient ground surface:
- a. In the Theater District, wall signs may be up to 50 feet high;
 - b. In the East Side Sports and Convention Center Complex District, wall signs may be up to 50 feet high for convention center venues and up to 42½ feet high for other types of venues;
 - c. In the Theater District, ground or marquee signs may be up to 24 feet high;
 - d. In the East Side Sports and Convention Center Complex District, ground or marquee signs may be up to 24 feet high for convention center venues and up to 42½ feet high for other venues;
 - e. In the Retail and Entertainment District, the maximum height above grade for the two special facility display signs shall not exceed 42½ feet;
- (6) No portion of the sign, as measured within any circular area of two feet in diameter, shall have a luminance greater than 6000 nits when all elements of the sign are fully and steadily illuminated between the hours of sunrise and sundown, nor greater than 3500 nits when all elements of the sign are fully and steadily illuminated between the hours of sundown and sunrise; in addition to the foregoing brightness limitations, the sign shall be equipped with automatic brightness compensation features to adjust the brightness to compensate for sun angle and ambient light conditions and ensure that the sign is visible but not unnecessarily radiant;
- (7) No special facility display sign shall be placed so as to be visible from an elevation five feet above any travel lane of any freeway. This requirement shall not preclude visibility of the sign's cabinet or the sign's face, provided that the sign is at least 2000 feet distant or is at an oblique angle, in either case so that it is not practicably viewable and readable; and
- (8) In addition to providing information about its own performances and events, a live performing arts theater special facility's sign may also be utilized to provide information about live

Thence in a northwesterly direction along the center line and then a projection of the center line of Walker Avenue to its intersection with the center line of the right-of-way of Interstate Highway 45,

Thence in a northeasterly direction along the center line of the right-of-way of Interstate 45 to its intersection with the center line of the right-of-way of Franklin Avenue, the point of Beginning, including, without limitation, all air space above and all subsurface below said property.

(b) Notwithstanding any provision of this code governing spectacular signs, signs on lighter- or heavier-than-air craft, or the use of motion picture machines to the contrary, county complex display signs, park display signs and special facility display signs shall be authorized in the manner defined in this section. The number of county complex display signs authorized under this section shall not exceed three per county complex. The number of park display signs authorized under this section shall be limited to one per park. The number of special facility display signs authorized under this section in the Retail and Entertainment District shall be limited to two, which shall be wall signs located on adjacent walls. Otherwise, the number of special facility display signs authorized under this section shall not exceed two per special facility, except that a convention center complex with over 1,500,000 gross square feet of space may have a maximum of eight signs to include not more than seven ground or marquee signs and one wall sign. A hotel that is associated with a convention center complex may have two special facility display signs in addition to those otherwise authorized for the convention center complex.

With respect to special facilities, the provisions of the foregoing paragraph are not intended to allow more than the number of signs authorized therein to be placed for or upon any structure or attached and contiguous complex of structures even if the structure or structures contain two or more venues that constitute special facilities.

Exception: Where the special facility venues do not share the same primary lobby or have contiguous lobbies and the primary public entrances to the primary lobbies of the venues are on different streets or different block faces of the same street, then each special facility venue may have the number of special facility display signs authorized in this subsection.

(c) The Sign Administrator shall have the right to revoke the permit for any county complex display sign, park display sign or special facility display sign that is erected or utilized in any manner that is inconsistent with this section or any other applicable provision of this code. Any such revocation shall be subject to the sign owner's rights under this code, including appeals to the General Appeals Board and City Council, as provided in Section 4604. Upon revocation of the permit for any sign governed by this section and conclusion of any appeals that may be timely

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- (2) The size of any wall sign shall not exceed 1000 square feet, the size of any ground or marquee sign shall not exceed 400 square feet, and the size any of projecting sign shall not exceed 200 square feet.
- (3) The maximum height above grade for wall signs and projecting signs for each respective business shall not exceed the maximum ceiling height of that portion of the building used for that business and approved for retail use under the City of Houston Building Code.

APPENDIX A

**SCENIC OR HISTORICAL RIGHTS-OF-
WAY OR DISTRICTS**

SCENIC OR HISTORICAL RIGHTS-OF-WAY OR DISTRICTS shall mean the following areas, each of which is specified with its date of creation:

- (1) T.C. Jester-from 11th Street to 43rd Street, designated by Ordinance No. 80-351, effective May 8, 1980.
- (2) Memorial Drive-from Houston Avenue to the limits of Hunters Creek Village, thence through Bunker Hill Village to the west boundary of the city limits of the City of Houston, designated by Ordinance No.80-351, effective May 8, 1980 (Dairy Ashford Road).
- (3) Woodway-from Memorial Drive to Voss Road, designated by Ordinance No. 80-351, effective May 8, 1980.
- (4) Allen Parkway-from Bagby to Kirby Drive to San Felipe, designated by Ordinance No. 80-351, effective May 8, 1980.
- (5) North Braeswood-from Hillcroft to Frankway, from Frankway to Braeswood to N. MacGregor to Almeda, designated by Ordinance No. 80-351, effective May 8, 1980.
- (6) South Braeswood-from Gessner to Main, designated by Ordinance No. 80-351, effective May 8, 1980.
- (7) North MacGregor-from Almeda to Calhoun, designated by Ordinance No. 80-351, effective May 8, 1980.
- (8) South MacGregor-from Almeda to Calhoun, designated by Ordinance No. 80-351, effective May 8, 1980.
- (9) South Freeway State Highway 288 (the South Freeway)-from Highway 59 to Loop 610, designated by Ordinance No. 80-351, effective May 8, 1980.
- (10) Post Oak Scenic District as designated by City Council Motion No. 83-3403, effective December 26, 1983.
- (11) Hardy Toll Road from the North Loop East (Loop 610) to Halls Bayou, as designated by City of Houston Ordinance No. 85-710, effective May 15, 1985.
- (12) Richmond/Weslayan Scenic District, being the following area:

Beginning at a point at the intersection of Lake Street and West Alabama and going west along the south side of West Alabama to Loop 610 West, then south along Loop 610 to the intersection of Highway 59, then following the north right-of-way line of 59 east to the

Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-693, effective May 20, 1986.

(15) South Freeway II Scenic District, being the following area:

Commencing at the intersection of the south right-of-way line of Interstate Highway 610 with the east right-of-way line of SH 288, thence easterly along the south right-of-way of Interstate Highway 610 to a point for corner, said point being 660 feet east of the east right-of-way line of SH 288 and the point of beginning;

Thence, in a generally southerly direction 660 feet east of and parallel to the east right-of-way line of SH 288 to the center line of Clear Creek, also being the Harris County Line;

Thence, in a westerly direction along the meanders of the center line of Clear Creek, also being the Harris County Line, to a point for corner; said point being 660 feet west of the west right-of-way line of SH 288;

Thence, in a generally northerly direction 660 feet west of and parallel to the west right-of-way line of SH 288 to a point for corner, said point being the intersection with the south right-of-way line of Interstate Highway 610;

Thence, in an easterly direction along the south right-of-way line of Interstate Highway 610, crossing SH 288 and continuing easterly to the point of beginning;

Save and except any area that may be within the corporate limits or extraterritorial jurisdiction of any other city;

Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-1282, effective July 29, 1986.

(16) Richmond Avenue Scenic District, being the following area:

Commencing at the intersection of the east right-of-way line of Dairy-Ashford Road and the north right-of-way of Richmond Avenue, thence northerly 300 feet to a point for corner, said point also being the point of beginning;

intersection with the south right-of-way line of Interstate Highway 10 and point for corner;

Thence, easterly along the south right-of-way line of Interstate Highway 10, crossing the right-of-way of Dairy-Ashford Road and continuing east a distance of 300 feet to the point of beginning;

Save and except any area that may be within the corporate limits or extraterritorial jurisdiction of any other city;

Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-1283, effective July 29, 1986.

(18) Lindale Park Area Scenic District, being the following area:

Beginning at the intersection of the easterly right-of-way line of the North Freeway (Interstate Highway 45) and the northerly right-of-way line of Cavalcade Street;

Thence, northerly along the easterly right-of-way line of the North Freeway (Interstate Highway 45) to a point for curve to the right;

Thence, continuing along a curve to the right to the intersection with the southerly right-of-way line of the North Loop (Interstate Highway 610);

Thence, easterly along the southerly right-of-way line of the North Loop (Interstate Highway 610) to a point for corner, said point being 125 feet east of the east right-of-way line of Robertson Street;

Thence, southerly along an imaginary line 125 feet east of and parallel to the easterly right-of-way line of Robertson Street to the intersection with an imaginary line 400 feet south of and parallel to the southerly right-of-way line of Cavalcade Street and point for corner;

Thence, westerly along said imaginary line 400 feet south of and parallel to the southerly right-of-way line of Cavalcade Street to the intersection with the easterly right-of-way line of Fulton Street;

Thence, continuing westerly, crossing Fulton Street along the westerly projection of the previously described imaginary line to the intersection with the easterly right-of-way line of the North Freeway (Interstate Highway 45) and point for corner;

Save and except any portion that is within an existing scenic or historic district, as designated by Ordinance No. 86-2193, effective December 16, 1986.

(20) F.M. 1093 Scenic District, being the following area:

Commencing at the intersection of the center line of F.M. 1093 and State Highway 6, thence easterly along the center line of F.M. 1093 to a point for corner, said point being 660 feet east of the center line of State Highway 6;

Thence in a generally southerly direction, perpendicular to the center line of F.M. 1093 to the POINT OF BEGINNING, said point being 660 feet south of the south right-of-way line of F.M. 1093;

Thence in a generally westerly direction 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for curve, said point being 660 feet south of the south right-of-way line of F.M. 1093;

Thence along a curve to the left being 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for tangency, said point being the intersection with the easterly projection of a line 660 feet south of and parallel to the southerly right-of-way line of F.M. 1093;

Thence in a generally southwesterly direction 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for curve; said point being 660 feet south of the south right-of-way line of F.M. 1093;

Thence along a curve to the right being 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for tangency, said point being the intersection with the easterly projection of a line 660 feet south of and parallel to the southerly right-of-way line of F.M. 1093;

Thence in a generally westerly direction 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for corner, said point being on Houston's five-mile extra territorial jurisdiction line as established in Ordinance No. 72-901, finally approved August 16, 1972;

Thence in a generally northerly direction along Houston's five mile extra territorial jurisdiction line to a point for corner, said point being 660 feet north of the north right-of-way line of F.M. 1093;

Then east along the north right-of-way line of U.S. Highway 59 to its intersection with the east right-of-way line of Wesleyan;

Then south along the east right-of-way line of Wesleyan to its intersection with the Southern Pacific railroad tracks;

Then east along the Southern Pacific railroad tracks to its intersection with the west right-of-way line of Buffalo Speedway;

Then north along the west right-of-way line of Buffalo Speedway to its intersection with the north right-of-way line of U.S. Highway 59;

Then east along the north right-of-way line of U.S. Highway 59 to its intersection with the west right-of-way line of Kirby Drive;

Then north along the west right-of-way line of Kirby Drive to its intersection with Norfolk;

Then west along the south right-of-way line of Norfolk to its intersection with the west right-of-way line of Lake Street;

Then north along the west right-of-way line of Lake Street to its intersection with the south right-of-way line of West Alabama;

Then east along the south right-of-way line of West Alabama to its intersection with the east right-of-way line of Montrose;

Then north along the east right-of-way line of Montrose to its intersection with the south right-of-way line of Westheimer;

Then east along the south right-of-way line of Westheimer to its intersection with the west right-of-way line of Brazos Street;

Then north along the west right-of-way line of Brazos Street to its intersection with the south right-of-way line of Tuam Avenue;

Then west along the south right-of-way line of Tuam to its intersection with the west right-of-way line of Bagby Street;

Then north along the west right-of-way line of Bagby to its intersection with the south right-of-way line of McGowen;

Then westerly along the south right-of-way line of Hermann Drive to its intersection with the east right-of-way line of Montrose;

Then north along the east right-of-way line of Montrose to its intersection with the south right-of-way line of Bissonnet;

Then west along the south right-of-way line of Bissonnet to its intersection with the east right-of-way line of Kirby Drive;

Then westerly following the boundary lines between the cities of West University Place and Bellaire and Houston to the east right-of-way line of Loop 610;

Then north along the east right-of-way line of Loop 610 to its intersection with the north right-of-way line of U.S. Highway 59, the point of beginning.

Save and except any portion that is within an existing scenic or historic district; created by Ordinance No. 2000-948, effective November 1, 2000.

(22) Downtown Scenic District, being the following:

Beginning at the intersection of the centerline of the right-of-way of Hutchins Street with the centerline of the right-of-way of Webster Avenue;

Thence in a northwesterly direction with the centerline of the right-of-way of Webster Avenue to the centerline of the right-of-way of U.S. Highway 59;

Thence in a northeasterly direction with the centerline of the right-of-way of U.S. Highway 59 to the centerline of the right-of-way of Gray Avenue;

Thence in a northwesterly direction with the centerline of the right-of-way of Gray Avenue to the centerline of the right-of-way of Baldwin Street;

Thence in a northeasterly direction with the centerline of the right-of-way of Baldwin Street to the centerline of the right-of-way of Pierce Avenue;

Thence in a northeasterly direction with the centerline and extended centerline of the right-of-way of Elder Street to the centerline of the right-of-way of Dart Street;

Thence in a westerly direction with the centerline of the right-of-way of Dart Street to the centerline of the right-of-way of Beachton Street;

Thence in a northerly direction with the centerline of the right-of-way of Beachton Street to the centerline of the right-of-way of Bingham Street;

Thence in a westerly direction with the centerline of the right-of-way of Bingham Street to the centerline of the right-of-way of Holly Street;

Thence in a northerly direction with the centerline of the right-of-way of Holly Street to the centerline of the right-of-way of the Southern Pacific Railroad;

Thence in an easterly direction with the centerline of the right-of-way of the Southern Pacific Railroad to the centerline of the right-of-way of McKee Street;

Thence in a southerly direction with the centerline of the right-of-way of McKee Street to the centerline of the right-of-way of Lyons Avenue;

Thence in an easterly direction with the centerline of the right-of-way of Lyons Avenue to the centerline of the right-of-way of Jensen Drive;

Thence in a southerly direction with the centerline of the right-of-way of Jensen Drive to the centerline of the right-of-way of Cline Street;

Thence in a westerly direction with the centerline of the right-of-way of Cline Street to the centerline of the right-of-way of the Houston Belt and Terminal Railroad;

Thence in a southerly direction the with centerline of the right-of-way of the Houston Belt and Terminal Railroad to the centerline of the right-of-way of Hutchins Street;

City of Houston, Texas, Ordinance No. 2009- 655

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE HOUSTON SIGN CODE; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the City of Houston has since 1980 enforced a comprehensive regulatory ordinance for signs located on the premises of Houston businesses; and

WHEREAS, although such provisions have been amended as needed, changes in sign technology and business practices indicate a need to review current on-premise sign regulations; and

WHEREAS, to accomplish such review, the Mayor appointed a task force with membership comprised of individuals representing a broad range of interest in on-premise sign issues, including representatives of developers, small and large businesses, restaurants, realtors, apartments, scenic organizations, quality of life organizations, and City staff to participate in the development of revised on-premise regulations; and

WHEREAS, the goals and objectives of the task force as established by the Mayor included the following:

1. Update the sign code for on-premise signage;
2. Recognize that signage is a critical tool in supporting businesses;
3. Improve on the current proliferation of signs that hinders business;
4. Improve the visual clutter that exists in major parts of the city;
5. Develop and improve communication of signage standards to enhance enforcement;
6. Set standards for new and emerging technologies; and

WHEREAS, the task force, following an intensive process of meetings over approximately ten months, has developed a series of proposed amendments intended to accomplish the desired goals and objectives; and

WHEREAS, City sign staff have also proposed additional housekeeping amendments; and

WHEREAS, the task force and City staff have also proposed that the Public Works and Engineering Department be authorized to undertake a study over the next three years of the use and impact of on-premise changeable message and high technology signs; and

WHEREAS, on June 11, 2009, the proposed amendments to Chapter 46 of the City of Houston Building Code, the Sign Code, were received and reviewed by the City Council Quality of Life Committee; **NOW, THEREFORE**,

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

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

Section 2. That Section 4602 of Chapter 46 of that volume of the City of Houston Construction Code known as the City of Houston Building Code (the "Houston Sign Code") is hereby amended by adding, in the appropriate alphabetical order position, the following new definitions:

"CANDELA shall mean a unit of luminous intensity equal to 1/60 of the luminous intensity per square centimeter of a blackbody radiating at the temperature of solidification of platinum (2,046°K). Also called *candle*."

"CHANGEABLE MESSAGE SIGN shall mean any on-premise sign that is capable of changing its message, copy or appearance by electronic processes, and shall include but not be limited to those on-premise signs employing changeable message light emitting diode technology, commonly referred to as LED signs."

"HIGH TECHNOLOGY SIGN shall mean any sign that utilizes electronic processes, such as light emitting diode (LED) technology, rather than mechanical or other means, to display a fixed and unchangeable message."

"NIT shall mean a unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter."

"SINGLE FAMILY RESIDENCE shall mean the use of a lot with one building designed for and containing not more than two separate units with facilities for living, sleeping, cooking and eating therein. A lot upon which is located a free-standing building containing one dwelling unit and a detached secondary dwelling unit of not more than 900 square feet also shall be considered a single-family residence. A building that contains one dwelling unit on one lot that is connected by a party wall to another building containing one dwelling unit on an adjacent lot shall be a single-family residence."

"VISIBLE shall mean capable of being seen from a right-of-way, whether legibly or not, by a person of normal visual acuity without the use of visual aids."

Section 3. That Section 4602 of the Houston Sign Code is hereby amended by deleting the definition of the term **LIGHT STANDARD DECORATION**.

Section 4. That Section 4602 of the Houston Sign Code is hereby amended by amending the following definitions to read as follows:

"EFFECTIVE DATE. Except as otherwise provided herein, the meaning of the term 'effective date' depends upon the location of a sign or proposed sign within the sign code application area, and it shall be determined as follows:

- (1) With respect to any area within the corporate limits of the City of Houston as the corporate limits existed on May 8, 1980: May 8, 1980.
- (2) With respect to any area annexed into the corporate limits of the City of Houston between May 8, 1980, and May 31, 1985: the date of the first publication of notice for a public hearing regarding the proposed annexation as required pursuant to Section 6 of former Article 970 (a), Texas Revised Civil Statutes Annotated.
- (3) With respect to the area of extraterritorial jurisdiction of the City of Houston as defined by Section 42.021 of the Local Government Code, as the area of extraterritorial jurisdiction existed on May 31, 1985: May 31, 1985.
- (4) With respect to any area annexed into the corporate limits of the City of Houston after May 31, 1985, and any extension of the area of extraterritorial jurisdiction of the City of Houston that resulted from such an annexation: the date of the first publication of notice for a public hearing regarding the proposed annexation as required pursuant to Section 6 of former Article 970 (a), Texas Revised Civil Statutes Annotated or Section 43.052 of the Local Government Code, as applicable."

"**ELECTRONIC SIGN** shall mean any off-premise sign that is capable of changing its message, copy or appearance by electronic or mechanical processes, and shall include but not be limited to those signs employing changeable message light emitting diode technology, commonly referred to as LED signs."

"**SCENIC OR HISTORICAL RIGHT-OF-WAY OR DISTRICT** shall mean those areas described in Appendix A to this chapter, each of which is specified with its date of creation."

"**SIGN** shall mean any outdoor display, design, pictorial or other representation that shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is designed, intended, or used to advertise or inform, or any similar display, design, pictorial, or other representation appearing in a window in a manner to be visible from the right-of-way. The term 'sign' shall include the sign structure. Every sign shall be classified and conform to the requirements of each of such classifications set forth in this chapter."

"**SIGN STRUCTURE** shall mean any structure that supports or is capable of supporting any sign, including all inter-related parts and materials designed to be used or intended to be used to support a sign face whether containing a message or not. A sign structure may be a single pole and may or may not be an integral part of a building."

Section 5. That in Subsection (a) of Section 4603 of the Houston Sign Code the definition of **ON-PREMISE SIGN** is hereby amended to read as follows:

"**ON-PREMISE SIGN** shall mean any sign identifying, advertising, or providing information about the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and maintained when such premises is used for business purposes."

Section 6. That in Subsection (b) of Section 4603 of the Houston Sign Code the definition of **BANNER SIGN** is hereby amended to read as follows:

"**BANNER SIGN** shall mean any sign constructed of cloth, canvas, light fabric or other light material, not to exceed 40 square feet in size; provided that portable signs, flag signs, and awning signs shall not be considered banner signs."

Section 7. That Item (1) of the definition of the term **SPECTACULAR SIGN** in Subsection (c) of Section 4603 of the Houston Sign Code is hereby amended to read as follows:

"(1) Automatically changing message that changes more often than once every five minutes;"

Section 8. That Subsection (f) of Section 4604 of the Houston Sign Code is hereby amended to read as follows:

"(f) Sign Advisory Council. There is hereby authorized a Sign Advisory Council consisting of ten members, to serve on an ad hoc basis as the Mayor shall determine. Six members at a meeting shall constitute a quorum. The positions on said Council shall be filled as follows:

Position 1	A representative of the on-premise sign industry
Position 2	A representative of the off-premise sign industry
Positions 3 & 4	Local civic group representatives
Position 5	At-large member who shall be chair of the Sign Advisory Council
Positions 6 & 7	Business persons located in the city who utilize signs
Positions 8 & 9	Land developers operating in the city
Position 10	The Sign Administrator of the City of Houston, or his designee, who shall also serve as the Secretary of the Sign Advisory Council.

The Sign Administrator may designate, in writing, a person under his supervision to act in his place as his duly authorized representative, said representative to enjoy all rights and privileges of the position. A copy of such a designation, specifying the dates any such person shall act as representative of the Sign Administrator, shall be filed with the minutes of the Sign Advisory Council. The Mayor shall designate as chairman a member of the local business community.

Upon a determination by the Mayor that the Sign Advisory Council should be constituted, members of the Sign Advisory Council shall be appointed by the Mayor, with the approval of the City Council, and shall serve for such term as the Mayor shall designate, with the approval of the City Council, not to exceed one year.

Whenever any position on the Sign Advisory Council becomes vacant by reason of death, resignation or removal, said vacancy shall be filled for the unexpired term of the member being replaced. Should a vacancy occur on the Sign Advisory Council, the Mayor shall appoint, subject to the consent of City Council, another qualified person to serve the unexpired term of such vacancy. Any member of the Sign Advisory Council may be removed at any time by the Mayor without consent of City Council. Each member of the Sign Advisory Council shall serve without compensation.

A City employee member of the Sign Advisory Council shall not vote as a member of such Council on any motion, resolution or recommendation by the Sign Advisory Council, but shall be permitted to give a written opinion or report to the Mayor and City Council concerning any such resolution or recommendation by the Sign Advisory Council.

The duty of the Sign Advisory Council shall be to consider and make recommendations to the Mayor and City Council concerning proposals to create scenic or historical districts or rights-of-way. The Sign Advisory Council may submit a written recommendation to the City Council concerning a scenic or historic district or right-of-way proposed to be created under the provisions of Section 4610 at any time prior to final City Council action on such proposal. Any such report, opinion or recommendation of the Sign Advisory Council is advisory only.

The Sign Advisory Council shall adopt reasonable rules and regulations for the conduct of its duties. A majority of the members of the Sign Advisory Council present, and lawfully meeting, shall determine the wishes of the Sign Advisory Council. All reports or recommendations delivered to the Mayor and City Council shall be rendered in writing with copies to the Sign Administrator.

The Sign Advisory Council shall prepare an agenda in advance of its meetings. The agenda shall be published by conspicuously posting a copy thereof at the City Hall and in the Sign Administration Office."

Section 9. That Items (1) and (2) of Subsection (b) of Section 4605 of the Houston Sign Code are hereby amended to read as follows:

- "(1) Signs painted on glass surfaces or windows or doors; provided however, that electrical signs or signs with structures, greater than six square feet in size, that appear in a window in a manner to be visible from the right-of-way shall require a permit as a wall sign. In addition,

no more than twenty percent of a glass storefront may be covered with advertising content.

- (2) Signs erected by or on behalf of the State of Texas (including political subdivisions thereof) or by or on behalf of the federal government. This exception shall not extend to signs erected by the City and City lessees unless the signs are situated upon property under the jurisdiction of the City's Aviation Department or property leased to the Harris County - Houston Sports Authority. Prior to April 9, 2002, this exception included signs erected by all City departments and City lessees; any sign lawfully erected by the City or any of its lessees as part of a construction project for which the building permit or a sign permit was issued before that date may be erected and continue to be repaired and maintained and may also be replaced with an equivalent sign erected in like manner in the event that the sign is destroyed by a casualty or in the event that the sign is removed and relocated for purposes relating to expansion or renovation of the facility that it serves."

Section 10. That Item (13) of Subsection (b) of Section 4605 of the Houston Sign Code is hereby deleted.

Section 11. That Item (1) of Subsection (c) of Section 4605 of the Houston Sign Code is hereby amended to read as follows:

- "(1) The application for a permit shall be submitted in such form as the Sign Administrator may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with the provisions of this chapter. Construction permit applications for any new signs, when erected or constructed to heights exceeding eight feet above ground level or in excess of sixty square feet in size, shall be accompanied by a design drawing of the sign structure and the sign, followed by an as-built drawing based on an on-the-ground inspection, both of which have been prepared by and certified by a professional engineer registered in the State of Texas; the Sign Administrator at his option may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety."

Section 12. That Subsection (j) of Section 4608 of the Houston Sign Code is hereby amended to read as follows:

"(j) Change of Ornamental Features or Advertising Display. No sign permit is required for the change of any of the ornamental features or the advertising display of a sign previously permitted. This provision shall not apply to signs under new ownership, to spectacular signs with respect to advertising display, or to converting existing signs to electronic signs, high technology signs, or changeable message signs, nor shall it release a person from complying with all other applicable permitting requirements of the City, including those of the Construction Code."

Section 13. That Subsection (m) of Section 4608 of the Houston Sign Code is hereby amended to read as follows:

"(m) Spectacular Signs. Spectacular signs are prohibited."

Section 14. That the title of Table 4609 of the Houston Sign Code is hereby amended by inserting a footnote at the end that reads as follows:

"1. Applies to signs initially permitted prior to September 1, 2009. For signs permitted after that date, see Table 4611."

Section 15. That 4611 of the Houston Sign Code is hereby amended by adding the following caption at the beginning of Subsection (g):

"Identifying Number Required."

Section 16. That Section 4611 of the Houston Sign Code is hereby amended by adding new Subsections (h) and (i) to read as follows:

"(h) Changeable Message and High Technology Signs. Save and except for signs erected pursuant to the provisions of Section 4620, the following provisions shall apply to all existing and new changeable message and high technology signs:

- (1) Blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating, or spot lights are prohibited.

- (2) Lights or colored elements creating a continuously moving, shimmering, or prismatic effect, or the use of rotating or moving parts in association with such lights or colored elements, are prohibited.
- (3) A changeable message sign may not change the message more often than every five minutes and must change the message within one second or less; a high technology sign may not change the message without a new permit.
- (4) Brightness limits shall be set at a maximum of 6500 nits between sunrise and sunset, and at a maximum of 1250 nits between sunset and sunrise, and each sign shall be fitted with a qualified light sensing device to automatically adjust the brightness in accordance with these standards.

(i) Additional On-Premise Sign Provisions. Beginning September 1, 2009, and save except for signs erected pursuant to the provisions of Section 4620, the following additional provisions shall apply to new on-premise signs for which an initial permit is requested after said date; provided, however, that in the event of a conflict between these provisions and other provisions of this chapter (except for Section 4620), the more stringent provisions shall control.

- (1) **Definitions and references.** In this subsection, the following terms shall have the meanings herein ascribed to them, unless the context of their usage clearly indicates another meaning:
 - a. All references in this Code to the size and height limitations contained in Table 4609 of this Code shall be interpreted to refer to the new size and height limitations contained in Table 4611.
 - b. **BUSINESS** shall mean any entity that uses an on-premise sign.
 - c. **SCHOOL** shall mean a public or private elementary, secondary, or high school.
- (2) **Additional restrictions for ground signs.**
 - a. For any business to which the multi-tenant standards of Category B and Category C of Table 4611 of this Code could apply that instead applies for a permit to utilize a single business ground sign, the single business ground

sign shall be permitted and constructed in accordance with the size and height limitations for the next smaller category of right-of-way; that is, a single business Category C sign shall be permitted and constructed to the Category B standards of Table 4611, and a single business Category B sign shall be permitted and constructed to the Category A standards of Table 4611. This provision shall not apply to any new ground sign that is more than 350 feet from another ground sign at the same location.

- b. All permanent signs other than wall signs and marquee signs will be counted as ground signs, including flag and fence signs.

(3) Additional restrictions for roof signs. Roof signs are prohibited.

(4) Additional restrictions for wall signs.

- a. The area of wall signs shall not exceed in the aggregate 25 percent of the area of the wall on which they are mounted or painted, or 1000 square feet, whichever is smaller.
- b. Wall signs may be attached only to buildings devoted exclusively to business purposes; wall signs attached to buildings or other structures not used exclusively in the furtherance of the primary business purpose shall be treated as ground signs. For the purposes of this provision, wall signs on parking garages located on the premises of the business shall be considered for business purposes.
- c. No wall sign may extend above the supporting exterior wall unless mounted on a mansard or facade, and in any event no wall sign may extend more than ten feet above the roof line of the supporting wall.
- d. In the central business district the maximum height of a wall sign shall not exceed 42-1/2 feet.

(5) Additional restrictions for projecting signs.

- a. No projecting sign shall extend above the roof line of the supporting exterior wall.
- b. In the central business district the maximum height of a projecting sign shall not exceed 42-1/2 feet.

(6) Additional restrictions for changeable message signs.

- a. Only one changeable message sign shall be permitted per business.
- b. Save and except for a changeable message sign located at a school, no changeable message sign shall be located on a local street.
- c. Save and except for a changeable message sign located at a school, no changeable message sign located on or facing a collector street shall be permitted within 150 feet of the property line of a single family residence.
- d. For a changeable message sign located on or facing a collector street, that portion of the sign where the changeable message is located shall not exceed in height those standards for Category A signs contained in Table 4611.
- e. That portion of the face of a changeable message sign devoted to changing the message shall be limited in area to fifty percent of the area of the sign face allowable under Table 4611, not to exceed 100 square feet.
- f. The height of a changeable message wall sign shall not exceed thirty-five feet or the roof line of the supporting exterior wall, whichever is shorter.
- g. An existing sign may only be converted into a changeable message sign in conformance with the standards for a new changeable message sign."

Section 17. That Section 4611 of the Houston Sign Code is hereby amended by adding new Table 4611 at the end thereof to read as follows:

**"TABLE 4611
ALLOWABLE ON-PREMISE GROUND SIGN HEIGHTS AND SIZES
BY SIGN TYPE AND CATEGORY OF RIGHT-OF-WAY**

SIGN TYPE	CATEGORY A		CATEGORY B		CATEGORY C		CATEGORY D	
	Height	Size	Height	Size	Height	Size	Height	Size
	(Ft.)	(Sft.)	(Ft.)	(Sft.)	(Ft.)	(Sft.)	(Ft.)	(Sft.)
SINGLE BUSINESS	14	100	20	150	42½	225	8	60
MULTI-TENANT 2 OR 3 BUSINESSES	19	200	26	300	42½	450	10	120
MULTI-TENANT 4 OR MORE BUSINESSES	24	300	31	450	42½	600	12	180
FLAG	20	—	35	—	50	—	—	—

CATEGORY A shall mean visible from and located on premises with frontage on scenic and historical rights-of-way and districts.

CATEGORY B shall mean visible from and located on premises with frontage on major thoroughfares including collector streets other than scenic and historical rights-of-way and districts.

CATEGORY C shall mean visible from and located on premises with frontage on freeways and highways other than scenic and historical rights-of-way and districts.

CATEGORY D shall mean visible from and located on premises with frontage on local streets."

Section 18. That Item (2) of Subsection (b) of Section 4612 of the Houston Sign Code is hereby amended to read as follows:

"(2) Electronic and off-premise high technology signs are prohibited. This prohibition shall include the construction, reconstruction, upgrading, or conversion of an existing off-premise sign to an electronic or off-premise high technology sign, such that no electronic or off-premise high technology signs are permitted."

Section 19. That Subitem c of Item (10) of Subsection (a) of Section 4617 of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the term "Sign Permitting Fund" with the term "Building Inspection Fund."

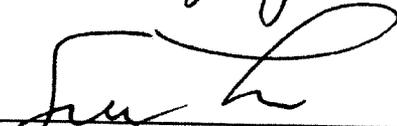
Section 20. That Subsection (a) of Section 4620 of the Houston Sign Code is hereby amended by deleting the definition of the term **NIT**.

Section 21. That the Houston Sign Code is hereby amended by adding thereto a new Appendix A, which reads as set forth in Exhibit A, attached hereto and incorporated herein.

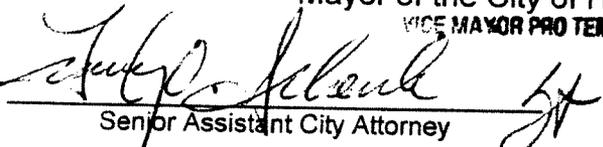
Section 22. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 23. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on September 1, 2009.

PASSED AND APPROVED this 8th day of July, 2009.



Mayor of the City of Houston
VICE MAYOR PRO TEM

Prepared by Legal Dept. 
LWS:asw 06/25/2009 Senior Assistant City Attorney

COPIES PUBLISHED IN DAILY COURT
DATE: JUL 14 2009

Requested by Michael S. Marcotte, P.E., Director, Department of Public Works and Engineering
 L.D. File No. _____

AYE	NO	
.....	ABSENT MAYOR WHITE
.....	PERSONAL BUSINESS COUNCIL MEMBERS
✓		LAWRENCE
✓		JOHNSON
	ABSENT	CLUTTERBUCK
✓		ADAMS
✓		SULLIVAN
	✓	KHAN
✓		HOLM
✓		GONZALEZ
✓		RODRIGUEZ
✓		BROWN
✓	VICE MAYOR PRO TEM	LOVELL
✓		NORIEGA
✓		GREEN
✓		JONES
CAPTION	ADOPTED	

EXHIBIT A

APPENDIX A

SCENIC OR HISTORICAL RIGHTS-OF-WAY OR DISTRICTS

SCENIC OR HISTORICAL RIGHTS-OF-WAY OR DISTRICTS shall mean the following areas, each of which is specified with its date of creation:

- (1) T.C. Jester-from 11th Street to 43rd Street, designated by Ordinance No. 80-351, effective May 8, 1980.
- (2) Memorial Drive-from Houston Avenue to the limits of Hunters Creek Village, thence through Bunker Hill Village to the west boundary of the city limits of the City of Houston, designated by Ordinance No.80-351, effective May 8, 1980 (Dairy Ashford Road).
- (3) Woodway-from Memorial Drive to Voss Road, designated by Ordinance No. 80-351, effective May 8, 1980.
- (4) Allen Parkway-from Bagby to Kirby Drive to San Felipe, designated by Ordinance No. 80-351, effective May 8, 1980.
- (5) North Braeswood-from Hillcroft to Frankway, from Frankway to Braeswood to N. MacGregor to Almeda, designated by Ordinance No. 80-351, effective May 8, 1980.
- (6) South Braeswood-from Gessner to Main, designated by Ordinance No. 80-351, effective May 8, 1980.
- (7) North MacGregor-from Almeda to Calhoun, designated by Ordinance No. 80-351, effective May 8, 1980.
- (8) South MacGregor-from Almeda to Calhoun, designated by Ordinance No. 80-351, effective May 8, 1980.
- (9) South Freeway State Highway 288 (the South Freeway)-from Highway 59 to Loop 610, designated by Ordinance No. 80-351, effective May 8, 1980.
- (10) Post Oak Scenic District as designated by City Council Motion No. 83-3403, effective December 26, 1983.
- (11) Hardy Toll Road from the North Loop East (Loop 610) to Halls Bayou, as designated by City of Houston Ordinance No. 85-710, effective May 15, 1985.
- (12) Richmond/Weslayan Scenic District, being the following area:

Beginning at a point at the intersection of Lake Street and West Alabama and going west along the south side of West Alabama to Loop 610 West, then south along Loop 610 to the intersection of Highway 59, then following the north right-of-way line of 59 east to the east right-of-way line of

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Weslayan, then south along the east right-of-way line of Weslayan to the Southern Pacific railroad tracks to the west right-of-way line of Buffalo Speedway, then north along the west right-of-way line of Buffalo Speedway to the north right-of-way line of Highway 59, then east along the north right-of-way line of Highway 59 to the west right-of-way line of Kirby, north on Kirby to Lory Park, west on Lory Park to Lake Street and then North on Lake Street back up to the intersection of West Alabama and Lake Street as designated by Ordinance No. 85-1079, effective June 26, 1985.

- (13) Heights Boulevard Scenic District, being the following area:

A corridor 450 feet in width, extending 225 feet on both sides of the center line of Heights Boulevard; said corridor being bounded on the south by the intersection of Heights Boulevard and the northerly right-of-way line of Interstate Highway 10, and being bounded on the north by the intersection of Heights Boulevard and the southerly right-of-way line of 20th Street, as designated by Ordinance No. 86-284, effective February 25, 1986.

- (14) Tanglewood Area Scenic District, being the following area:

Beginning at the intersection of the center line of Woodway Drive and the center line of Buffalo Bayou;

Thence, in a westerly direction, along the center line meanders of Buffalo Bayou to a point 300 feet west of the west right-of-way of Voss Road;

Thence, in a southerly direction along a line 300 feet west of and parallel to the west right-of-way of Voss Road to a point 300 feet south of the south right-of-way of Westheimer Road;

Thence, in an easterly direction along a line 300 feet south of and parallel to the south right-of-way line of Westheimer Road to a point of intersection in the center line of Chimney Rock Road;

Thence, in a northerly direction along the center line of Chimney Rock Road to the intersection with the center line of Woodway Drive;

Thence, in an easterly direction along the center line of Woodway Drive to the point of beginning.

Save and except any area that may be within the corporate limits of any other city.

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Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-693, effective May 20, 1986.

- (15) South Freeway II Scenic District, being the following area:

Commencing at the intersection of the south right-of-way line of Interstate Highway 610 with the east right-of-way line of SH 288, thence easterly along the south right-of-way of Interstate Highway 610 to a point for corner, said point being 660 feet east of the east right-of-way line of SH 288 and the point of beginning;

Thence, in a generally southerly direction 660 feet east of and parallel to the east right-of-way line of SH 288 to the center line of Clear Creek, also being the Harris County Line;

Thence, in a westerly direction along the meanders of the center line of Clear Creek, also being the Harris County Line, to a point for corner; said point being 660 feet west of the west right-of-way line of SH 288;

Thence, in a generally northerly direction 660 feet west of and parallel to the west right-of-way line of SH 288 to a point for corner, said point being the intersection with the south right-of-way line of Interstate Highway 610;

Thence, in an easterly direction along the south right-of-way line of Interstate Highway 610, crossing SH 288 and continuing easterly to the point of beginning;

Save and except any area that may be within the corporate limits or extraterritorial jurisdiction of any other city;

Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-1282, effective July 29, 1986.

- (16) Richmond Avenue Scenic District, being the following area:

Commencing at the intersection of the east right-of-way line of Dairy-Ashford Road and the north right-of-way of Richmond Avenue, thence northerly 300 feet to a point for corner, said point also being the point of beginning;

Thence, easterly along an imaginary line 300 feet north of and parallel to the north right-of-way line of Richmond Avenue to the intersection with the westerly right-of-way line of Wilcrest Drive;

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Thence, continuing easterly across the right-of-way line of Wilcrest Drive to the intersection with the easterly right-of-way line of Wilcrest Drive and point for corner;

Thence, southerly along the easterly right-of-way line of Wilcrest Drive, crossing the right-of-way of Richmond Avenue and continuing southerly 300 feet to a point for corner;

Thence, westerly along an imaginary line 300 feet south of and parallel to the southerly right-of-way line of Richmond Avenue to the intersection with the easterly right-of-way line of Dairy-Ashford Road and point for corner;

Thence, northerly along the easterly right-of-way line of Dairy-Ashford Road, crossing the right-of-way of Richmond Avenue and continuing northerly 300 feet to the point of beginning;

Save and except any area that may be within the corporate limits or extraterritorial jurisdiction of any other city;

Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-1283, effective July 29, 1986.

(17) Dairy-Ashford Scenic District, being the following area:

Commencing at the south right-of-way line of Interstate Highway 10 and the east right-of-way line of Dairy-Ashford Road, thence, easterly along the south right-of-way line of Interstate Highway 10 a distance of 300 feet to a point for corner and the point of beginning;

Thence, in a southerly direction along an imaginary line 300 feet east of and parallel to the east right-of-way line of Dairy-Ashford Road to the intersection with the north right-of-way line of Alief-Clodine Road and point for corner;

Thence, westerly along the north right-of-way line of Alief-Clodine Road, crossing the right-of-way of Dairy-Ashford Road and continuing westerly 300 feet to a point for corner;

Thence, northerly along an imaginary line 300 feet west of and parallel to the westerly right-of-way line of Dairy-Ashford Road to the intersection with the south right-of-way line of Interstate Highway 10 and point for corner;

Thence, easterly along the south right-of-way line of Interstate Highway 10, crossing the right-of-way of Dairy-Ashford Road and continuing east a distance of 300 feet to the point of beginning;

Save and except any area that may be within the corporate limits or extraterritorial jurisdiction of any other city;

Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-1283, effective July 29, 1986.

- (18) Lindale Park Area Scenic District, being the following area:

Beginning at the intersection of the easterly right-of-way line of the North Freeway (Interstate Highway 45) and the northerly right-of-way line of Cavalcade Street;

Thence, northerly along the easterly right-of-way line of the North Freeway (Interstate Highway 45) to a point for curve to the right;

Thence, continuing along a curve to the right to the intersection with the southerly right-of-way line of the North Loop (Interstate Highway 610);

Thence, easterly along the southerly right-of-way line of the North Loop (Interstate Highway 610) to a point for corner, said point being 125 feet east of the east right-of-way line of Robertson Street;

Thence, southerly along an imaginary line 125 feet east of and parallel to the easterly right-of-way line of Robertson Street to the intersection with an imaginary line 400 feet south of and parallel to the southerly right-of-way line of Cavalcade Street and point for corner;

Thence, westerly along said imaginary line 400 feet south of and parallel to the southerly right-of-way line of Cavalcade Street to the intersection with the easterly right-of-way line of Fulton Street;

Thence, continuing westerly, crossing Fulton Street along the westerly projection of the previously described imaginary line to the intersection with the easterly right-of-way line of the North Freeway (Interstate Highway 45) and point for corner;

Thence, northerly along the easterly right-of-way line of the North Freeway (Interstate Highway 45) to the intersection with the northerly right-of-way line of Cavalcade Street and point of beginning;

Save and except any area that may be within the corporate limits of any other city;

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Save and except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 86-1715, effective September 30, 1986.

- (19) Beltway 8 Scenic District, being all that real property situated within 660 feet as measured in any direction from any point situated upon the right-of-way, whether acquired or proposed, for the Beltway 8 system, as described on the following maps of the Texas Department of Transportation (formerly the Texas Department of Highways and Public Transportation - SDHPT), Harris County Engineering Department (HCED) and the Texas Turnpike Authority (TTA), to wit:

1. SDHPT Account Maps No. 8012-1-73, Part 1;
2. SDHPT Account Maps No. 8012-1-73, Part 2;
3. SDHPT Account Maps No. 8012-1-70;
4. SDHPT Account Maps No. 8012-1-63;
5. SDHPT Account Maps No. 8012-1-68, Part 1;
6. SDHPT Account Maps No. 8012-1-68, Part 2;
7. SDHPT Account Maps No. 8012-1-72, Part 1;
8. SDHPT Account Maps No. 8012-1-72, Part 2;
9. SDHPT Account Maps No. 8012-1-71;
10. SDHPT Account Maps No. 8012-1-69;
11. SDHPT Account Maps No. 8012-1-76;
12. SDHPT Account Maps No. 8012-1-64;
13. SDHPT Account Maps No. 8012-1-67;
14. SDHPT Account Maps No. 8012-1-65, Part 1;
15. SDHPT Account Maps No. 8012-1-65, Part 2;
16. SDHPT Account Maps No. 8012-1-65, Part 3;
17. SDHPT Account Maps No. 8012-1-74;
18. SDHPT Account Maps No. 8012-1-75;
19. HCED Right-of-Way Maps Series No. 35390; and
20. TTA Right-of-Way Maps File No. 5017-017.

Microfilm negatives of the foregoing maps are on file in the Office of the City Secretary for copying and inspection and are incorporated herein by reference.

Save and except any portion that is not within the corporate limits of the City of Houston or the area of its extraterritorial jurisdiction.

Save and except any portion that is within an existing scenic or historic district, as designated by Ordinance No. 86-2193, effective December 16, 1986.

- (20) F.M. 1093 Scenic District, being the following area:

Commencing at the intersection of the center line of F.M. 1093 and State Highway 6, thence easterly along the center line of F.M. 1093 to a point for corner, said point being 660 feet east of the center line of State Highway 6;

Thence in a generally southerly direction, perpendicular to the center line of F.M. 1093 to the POINT OF BEGINNING, said point being 660 feet south of the south right-of-way line of F.M. 1093;

Thence in a generally westerly direction 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for curve, said point being 660 feet south of the south right-of-way line of F.M. 1093;

Thence along a curve to the left being 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for tangency, said point being the intersection with the easterly projection of a line 660 feet south of and parallel to the southerly right-of-way line of F.M. 1093;

Thence in a generally southwesterly direction 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for curve; said point being 660 feet south of the south right-of-way line of F.M. 1093;

Thence along a curve to the right being 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for tangency, said point being the intersection with the easterly projection of a line 660 feet south of and parallel to the southerly right-of-way line of F.M. 1093;

Thence in a generally westerly direction 660 feet south of and parallel to the south right-of-way line of F.M. 1093 to a point for corner, said point being on Houston's five-mile extra territorial jurisdiction line as established in Ordinance No. 72-901, finally approved August 16, 1972;

Thence in a generally northerly direction along Houston's five mile extra territorial jurisdiction line to a point for corner, said point being 660 feet north of the north right-of-way line of F.M. 1093;

Thence in a generally easterly direction parallel to the north right-of-way line of F.M. 1093 to a point for curve, said point being 660 feet north of the north right-of-way line of F.M. 1093;

Thence along a curve to the left being 660 feet north of and parallel to the north right-of-way line of F.M. 1093 to a point for tangency, said point being

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the intersection with the westerly projection of a line 660 feet north of and parallel to the northerly right-of-way line of F.M. 1093;

Thence in a generally northeasterly direction 660 feet north of and parallel to the north right-of-way line of F.M. 1093 to a point for curve, said point being 660 feet north of the north right-of-way line of F.M. 1093;

Thence along a curve to the right being 660 feet north of and parallel to the north right-of-way line of F.M. 1093 to a point for tangency, said point being the intersection with the westerly projection of a line 660 feet north of and parallel to the northerly right-of-way line of F.M. 1093;

Thence in a generally easterly direction 660 feet north of and parallel to F.M. 1093 to a point for corner, said point being 660 feet east of the center line of State Highway 6;

Thence in a generally southerly direction to the POINT OF BEGINNING, said point being 660 feet south of the south right-of-way line of F.M. 1093;

Save and Except any area that may be within the corporate limits or extra territorial jurisdiction of any other city;

Save and Except any area that may be within an existing scenic or historic district, as designated by Ordinance No. 90-1092, effective September 12, 1990. The operation of the said scenic district does not extend to any on-premise sign that is situated within that portion of the City's area of extra territorial jurisdiction that lies in Harris County, Texas, as provided in the said ordinance.

(21) Gateway U.S. 59/Midtown Scenic District, being the following:

Beginning at a point at the intersection of Loop 610 and the north right-of-way line of U.S. Highway 59;

Then east along the north right-of-way line of U.S. Highway 59 to its intersection with the east right-of-way line of Wesleyan;

Then south along the east right-of-way line of Wesleyan to its intersection with the Southern Pacific railroad tracks;

Then east along the Southern Pacific railroad tracks to its intersection with the west right-of-way line of Buffalo Speedway;

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Then north along the west right-of-way line of Buffalo Speedway to its intersection with the north right-of-way line of U.S. Highway 59;

Then east along the north right-of-way line of U.S. Highway 59 to its intersection with the west right-of-way line of Kirby Drive;

Then north along the west right-of-way line of Kirby Drive to its intersection with Norfolk;

Then west along the south right-of-way line of Norfolk to its intersection with the west right-of-way line of Lake Street;

Then north along the west right-of-way line of Lake Street to its intersection with the south right-of-way line of West Alabama;

Then east along the south right-of-way line of West Alabama to its intersection with the east right-of-way line of Montrose;

Then north along the east right-of-way line of Montrose to its intersection with the south right-of-way line of Westheimer;

Then east along the south right-of-way line of Westheimer to its intersection with the west right-of-way line of Brazos Street;

Then north along the west right-of-way line of Brazos Street to its intersection with the south right-of-way line of Tuam Avenue;

Then west along the south right-of-way line of Tuam to its intersection with the west right-of-way line of Bagby Street;

Then north along the west right-of-way line of Bagby to its intersection with the south right-of-way line of McGowen;

Then west along the south right-of-way line of McGowen Avenue to its intersection with the southwest right-of-way line of Bailey Street;

Then north along the southwest right-of-way line of Bailey Street to its intersection with the north right-of-way line of West Webster;

Then east along the north right-of-way line of West Webster to its intersection with the north right-of-way line of Webster;

Then west along the north right-of-way line of Webster to its intersection with the south right-of-way line of West Gray;

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Then east along the south right-of-way line of West Gray to its intersection with the west right-of-way line of Baldwin Street;

Then north along the west right-of-way line of Baldwin Street to its intersection with the south right-of-way line of Arthur Street;

Then west along the south right-of-way line of Arthur to its intersection with the north right-of-way line of Cleveland;

Then east along the north right-of-way line of Cleveland to its intersection with the south right-of-way line of Interstate Highway 45;

Then east along the south right-of-way line of Interstate Highway 45 to its intersection with the east right-of-way line of Smith Street;

Then south along the east right-of-way line of Smith Street to its intersection with the north right-of-way line of Gray;

Then east along the north right-of-way line of Gray to its intersection with the west right-of-way line of State Highway 288/U.S. 59;

Then south along the west right-of-way line of State Highway 288 to its intersection with the south right-of-way line of MacGregor Way;

Then westerly along the south right-of-way line of MacGregor Way to Hermann Drive;

Then westerly along the south right-of-way line of Hermann Drive to its intersection with the east right-of-way line of Montrose;

Then north along the east right-of-way line of Montrose to its intersection with the south right-of-way line of Bissonnet;

Then west along the south right-of-way line of Bissonnet to its intersection with the east right-of-way line of Kirby Drive;

Then westerly following the boundary lines between the cities of West University Place and Bellaire and Houston to the east right-of-way line of Loop 610;

Then north along the east right-of-way line of Loop 610 to its intersection with the north right-of-way line of U.S. Highway 59, the point of beginning.

Save and except any portion that is within an existing scenic or historic district; created by Ordinance No. 2000-948, effective November 1, 2000.

(22) Downtown Scenic District, being the following:

Beginning at the intersection of the centerline of the right-of-way of Hutchins Street with the centerline of the right-of-way of Webster Avenue;

Thence in a northwesterly direction with the centerline of the right-of-way of Webster Avenue to the centerline of the right-of-way of U.S. Highway 59;

Thence in a northeasterly direction with the centerline of the right-of-way of U.S. Highway 59 to the centerline of the right-of-way of Gray Avenue;

Thence in a northwesterly direction with the centerline of the right-of-way of Gray Avenue to the centerline of the right-of-way of Baldwin Street;

Thence in a northeasterly direction with the centerline of the right-of-way of Baldwin Street to the centerline of the right-of-way of Pierce Avenue;

Thence in a northwesterly direction with the centerline of the right-of-way of Pierce Avenue to the extended centerline of the right-of-way of Buckner Street;

Thence in a northerly direction with the extended centerline of Buckner Street to the centerline of the right-of-way of Cleveland Street;

Thence in an easterly direction with the centerline of the right-of-way of Cleveland Street to the centerline of the right-of-way of Arthur Street;

Thence in a northerly direction with the centerline of the right-of-way of Arthur Street to the centerline of the right-of-way of West Dallas Street;

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Thence in an easterly direction with the centerline of the right-of-way of West Dallas Street to the centerline of the right-of-way of Crosby Street;

Thence in a northerly direction with the centerline of the right-of-way of Crosby Street to the centerline of the right-of-way of Allen Parkway;

Thence in an easterly direction with the centerline of the right-of-way of Allen Parkway to the centerline of the right-of-way of Sabine Street;

Thence in a northerly direction with the centerline of the right-of-way of Sabine Street to the centerline of the right-of-way of Memorial Drive;

Thence in an easterly direction with the centerline of the right-of-way of Memorial Drive to the centerline of the right-of-way of Houston Avenue;

Thence in a northerly direction with the centerline of the right-of-way of Houston Avenue to the centerline of the right-of-way of Washington Avenue;

Thence in an easterly direction with the centerline of the right-of-way of Washington Avenue to the centerline of the right-of-way of Elder Street;

Thence in a northeasterly direction with the centerline and extended centerline of the right-of-way of Elder Street to the centerline of the right-of-way of Dart Street;

Thence in a westerly direction with the centerline of the right-of-way of Dart Street to the centerline of the right-of-way of Beachton Street;

Thence in a northerly direction with the centerline of the right-of-way of Beachton Street to the centerline of the right-of-way of Bingham Street;

Thence in a westerly direction with the centerline of the right-of-way of Bingham Street to the centerline of the right-of-way of Holly Street;

Thence in a northerly direction with the centerline of the right-of-way of Holly Street to the centerline of the right-of-way of the Southern Pacific Railroad;

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Thence in an easterly direction with the centerline of the right-of-way of the Southern Pacific Railroad to the centerline of the right-of-way of McKee Street;

Thence in a southerly direction with the centerline of the right-of-way of McKee Street to the centerline of the right-of-way of Lyons Avenue;

Thence in an easterly direction with the centerline of the right-of-way of Lyons Avenue to the centerline of the right-of-way of Jensen Drive;

Thence in a southerly direction with the centerline of the right-of-way of Jensen Drive to the centerline of the right-of-way of Cline Street;

Thence in a westerly direction with the centerline of the right-of-way of Cline Street to the centerline of the right-of-way of the Houston Belt and Terminal Railroad;

Thence in a southerly direction with the centerline of the right-of-way of the Houston Belt and Terminal Railroad to the centerline of the right-of-way of Hutchins Street;

Thence in a southwesterly direction with the centerline of the right-of-way of Hutchins Street to the centerline of the right-of-way of Preston Avenue;

Thence in a southeasterly direction with the centerline of the right-of-way of Preston Avenue to the centerline of the right-of-way of Bastrop Street;

Thence in a southwesterly direction with the centerline of the right-of-way of Bastrop Street to the centerline of the right-of-way of Rusk Avenue;

Thence in a northwesterly direction with centerline of the right-of-way of Rusk Avenue to the centerline of the right-of-way of Hutchins Street;

Thence in a southwesterly direction with the centerline of the right-of-way of Hutchins Street to the point of beginning at the centerline of the right-of-way of Webster Avenue.

Save and except any portion that is within an existing scenic or historic district; created by Ordinance No. 2002-238, effective April 9, 2002. Notwithstanding any other provision of this Code to the

Chapter 46, Appendix A

contrary, the creation and existence of the Downtown Scenic District shall not preclude placement and maintenance of the special facility display signs that are authorized in Section 4620 of this Code.

- (23) Any other areas designated under the provisions of Section 4610.

Section 4602

~~Thence in a southerly direction the with centerline of the right of way of the Houston Belt and Terminal Railroad to the centerline of the right of way of Hutchins Street;~~

~~Thence in a southwesterly direction with the centerline of the right of way of Hutchins Street to the centerline of the right of way of Preston Avenue;~~

~~Thence in a southeasterly direction with the centerline of the right of way of Preston Avenue to the centerline of the right of way of Bastrop Street;~~

~~Thence in a southwesterly direction with the centerline of the right of way of Bastrop Street to the centerline of the right of way of Rusk Avenue;~~

~~Thence in a northwesterly direction with centerline of the right of way of Rusk Avenue to the centerline of the right of way of Hutchins Street;~~

~~Thence in a southwesterly direction with the centerline of the right of way of Hutchins Street to the point of beginning at the centerline of the right of way of Webster Avenue.~~

~~Save and except any portion that is within an existing scenic or historic district, created by Ordinance No. 2002-238, effective April 9, 2002. Notwithstanding any other provision of this Code to the contrary, the creation and existence of the Downtown Scenic District shall not preclude placement and maintenance of the special facility display signs that are authorized in Section 4620 of this Code.~~

~~(23) Any other areas designated under the provisions of Section 4610.~~

SIGN shall mean any outdoor display, design, pictorial or other representation that shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is designed, intended, or used to advertise or inform shall be used for advertising, or any similar display, design, pictorial, or other representation appearing in a window in a manner to be visible from the right-of-way. The term "sign" shall include the sign structure. Every sign shall be classified and conform to the requirements of each of such classifications set forth in this chapter.



CITY OF HOUSTON

Public Works & Engineering

Interoffice

Correspondence

To: Marty Stein

From: Deputy Director
Planning & Development Services Division

Date: June 19, 2009

Subject: On-Premise sign ordinance

In June 2008, the Administration established an On-Premise Sign Task Force to make recommendations and improvements to the City of Houston's Sign Code. The task force membership included representatives of developers, small and large businesses, restaurants, realtors, apartments, scenic organizations, quality of life organizations and city staff. Since its inception, the task force has recommended banning attention getting devices (approved by City Council in November 2008) and made changes to allow for directional signage for large campuses of higher education (adopted by City Council December 2008).

The Task Force developed and PWE recommended several changes to the Quality of Life Committee on June 11, 2009. Letters of support for their recommendations have been received from Scenic Houston, Quality of Life Coalition, Building Owners Management Association, Institute of Real Estate Management, Houston Real Estate Council, and Houston Apartment Association.

During the Quality of Life Committee meeting, several issues were raised that require some discussion and comment.

- Amortization of signs – the Task Force looked extensively at ways and means to have these proposed revisions also apply to the existing 66,000 On-Premise signs. Unilaterally applying it today would cost the community \$100 to 300 million (estimates vary widely). The task force did not recommend this step. Several speakers at the committee urged the Administration to consider an amortization of existing signs. We have not included that recommendation in this proposal, however, Committee Chair Lovell agreed to consider this, in the future, if a cost effective way of achieving this can be established and it is supported by Scenic Groups and Business Organizations.
- Variance process – The Sign Association voiced a view requesting a defined variance process that is additional to the existing process. Currently, the Sign Code allows businesses to appeal decisions of the Sign Administrator to the General Appeals Board, and ultimately to City Council. The Task Force does not recommend this step, largely because we believe the current Sign Code provides a clear and consistent set of rules that apply to all. The legal department has also consulted experts in the industry and similarly do not recommend a “sub” variance process.

- Schools or Churches exemption – This proposed ordinance bans changeable message signs on all city local streets (70% of total streets) and within 150' of a single family residence on a collector street. There was a request to exempt Schools and Churches from this requirement (there was also a request to allow these facilities to change the message every 8 seconds rather than the currently defined “every 5 minutes”). The Task Force has considered and does not recommend this exemption for Schools and Churches. The Task Force believes this rule should apply to all business and institutions so that the goal of minimizing clutter, protecting neighborhoods, ensuring drivers pay attention to driving and ultimately treating all equally, makes sense.

There are other issues concerning unique rules applying to Real Estate signage, signage for apartment complexes and larger corporate campuses that were considered by the Task Force. No recommendations were made in this ordinance for these facilities; however, we expect to bring a recommendation to Council concerning these issues by the end of the year.



Andrew F. Icken

AFI:dm

Attachments

c: Council Member Lovell
Tommy Friedlander

ISSUANCE OF LOCAL PERMITS
Ch. 245

§ 245.002

effective date of this Act, or in any litigation pending in a court on the effective date of this Act, involving an interpretation of Subchapter I, Chapter 481, Government Code, as it existed before its repeal by the 75th Legislature.

Sec. 4. Construction of Act. Nothing in this Act shall be construed to apply to a condition or provision of an ordinance, rule, or regulation that is enacted by a regulatory agency, as that term is defined by Section 245.001, Local Government Code, as added by Section 2 of this Act, which is specifically required by uniformly applicable regulations adopted by a state agency after the effective date of this Act.

Sec. 5. Effect on Coastal Zone Management Act. Nothing in this Act shall be construed to:

(1) limit or otherwise affect the authority of a municipality, a county, another political subdivision, the state, or an agency of the state, with respect to the implementation or enforcement of an ordinance, a rule, or a statutory standard of a program, plan, or ordinance that was adopted under the federal Coastal Zone

Management Act of 1972 (16 U.S.C. Section 1451 et seq.) or its subsequent amendments or Subtitle E, Title 2, Natural Resources Code; or

"(2) apply to a permit, order, rule, regulation, or other action issued, adopted, or undertaken by a municipality, a county, another political subdivision, the state, or an agency of the state in connection with the federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.) or its subsequent amendments or Subtitle E, Title 2, Natural Resources Code."

Acts 2005, 79th Leg., ch. 6, in subd. (1), inserted "contract or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency,".

Section 3 of Acts 2005, 79th Leg., ch. 6 provides:

"The change in law made by this Act to Subdivision (1), Section 245.001, Local Government Code, is subject to the applicability provision of Section 245.003, Local Government Code."

Research References

TX Jur. 3d Zoning XII Ref., Divisional References.

Treatises and Practice Aids

Brooks, 36A Tex. Prac. Series § 43.2A, Permits.

Notes of Decisions

residences in the future was addressed in other provisions of statute that were not applicable to this case. *Hartsell v. Town of Talty* (App. 5 Dist. 2004) 130 S.W.3d 325, clarified on denial of rehearing, review denied. *Zoning And Planning* ⇨ 376

2. Permits

Property owner's planned development district (PDD) applications were not "permits" such that city could table third application until after sector plan was revised and then deny application for failure to comply with revised plan; existing zoning did not entitle owner to develop his property free from all subsequent regulatory changes. *Weatherford v. City of San Marcos* (App. 3 Dist. 2004) 2004 WL 2813777. *Zoning And Planning* ⇨ 376

Encyclopedias

TX Jur. 3d Zoning § 163, Generally.

TX Jur. 3d Zoning § 165, Issuance of Local Permits.

TX Jur. 3d Zoning § 226, Burden of Proof.

In general 1
Permits 2

1. In general

Statute providing that construction regulations in effect at time of initial permit application would apply through end of project precluded application of town's building codes to development project already in progress, despite town's contention that development of subdivision and construction of individual residences within subdivision were separate "projects" within meaning of statute; statute expressly contemplated that single project might require series of permits, town provided no support for its narrow construction of term, and any concern that developer might build obsolete

§ 245.002. Uniformity of Requirements

(a) Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time:

(1) the original application for the permit is filed for review for an purpose, including review for administrative completeness; or

(2) a plan for development of real property or plat application is filed with a regulatory agency.

(a-1) Rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought. An application or plan is considered filed on the date the applicant delivers the application or plan to the regulatory agency or deposits the application or plan with the United States Postal Service by certified mail addressed to the regulatory agency. A certified mail receipt obtained by the applicant at the time of deposit is prima facie evidence of the date the application or plan was deposited with the United States Postal Service.

(b) If a series of permits is required for a project, the orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time the original application for the first permit in that series is filed shall be the sole basis for consideration of all subsequent permits required for the completion of the project. All permits required for the project are considered to be a single series of permits. Preliminary plans and related subdivision plats, site plans, and all other development permits for land covered by the preliminary plans or subdivision plats are considered collectively to be one series of permits for a project.

(c) After an application for a project is filed, a regulatory agency may not shorten the duration of any permit required for the project.

(d) Notwithstanding any provision of this chapter to the contrary, a permit holder may take advantage of recorded subdivision plat notes, recorded restrictive covenants required by a regulatory agency, or a change to the laws, rules, regulations, or ordinances of a regulatory agency that enhance or protect the project, including changes that lengthen the effective life of the permit after the date the application for the permit was made, without forfeiting any rights under this chapter.

(e) A regulatory agency may provide that a permit application expires on or after the 45th day after the date the application is filed if:

(1) the applicant fails to provide documents or other information necessary to comply with the agency's technical requirements relating to the form and content of the permit application;

(2) the agency provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided and

(3) the applicant fails to provide the specified documents or other information within the time provided in the notice.

Vrana, Maria - PWE - CE

From: Tipton, Katherine - PWE - CE
nt: Friday, June 18, 2010 11:16 AM
To: Vrana, Maria - PWE - CE
Subject: RE: GAB-Response to Trinity Lutheran Church Appeal
Attachments: trinity lutheran response to appeal.doc

Good morning, Maria! You're right in that most of those exhibits are mine, but I couldn't find my response letter. It lays out Sign Admin's position on Rothfelder's arguments. Our email has been so weird lately it may not have gotten to you. Just in case, I'm attaching it again.

Have a great weekend and I appreciate all you do! Katye

From: Vrana, Maria - PWE - CE
Sent: Thursday, June 17, 2010 3:13 PM
To: Tipton, Katherine - PWE - CE
Subject: RE: GAB-Response to Trinity Lutheran Church Appeal

Documents attached to Rothfelder's petition is everything you just submitted in the PDF file.

Maria Vrana

City of Houston

Code Enforcement

3300 Main, Houston, TX 77002

713-535-7535 Fax- 713-535-7895

** Please Note New Email Address ****

maria.vrana@houstontx.gov

If you would like to receive periodic emails from Mayor Annise D. Parker and the City of Houston on topics of interest to you and your neighborhood, please go to www.houstontx.gov and register with CitizensNet.

From: Tipton, Katherine - PWE - CE
Sent: Thursday, June 17, 2010 3:00 PM
To: Vrana, Maria - PWE - CE; Richard Rothfelder
Cc: Schenk, Larry - LGL
Subject: GAB-Response to Trinity Lutheran Church Appeal
Importance: High

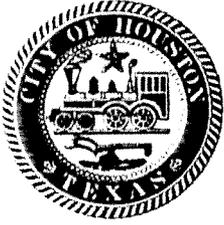
Maria:

I am attaching my response to the Trinity Lutheran Church Appeal. I originally sent it back in March, so I'm leaving it as is even though it still has Gary's name on it. I'm also sending it via this email to Richard Rothfelder because if you didn't get it, I'm sure he didn't either. Please distribute it to the board members and we'll see you (or Robert, I guess) next week. Thanks and I apologize for this not getting through.

Regards,

Katye Tipton
Division Manager
City of Houston
Sign Administration
Department of Public Works & Engineering
Phone (713) 218-5829
New Email Address - katherine.tipton@houstontx.gov

If you would like to receive periodic emails from Mayor Annise D. Parker and the City of Houston on topics of interest to you and your neighborhood, please go to <http://www.houstontx.gov> and register with CitizensNet.



CITY OF HOUSTON

Department of Public Works and Engineering

Annise D. Parker

Mayor

Michael S. Marcotte, P.E., D.WRE, BCEE
Director
P.O. Box 1562
Houston, Texas 77251-1562

T. 713 837-0037
F. 713 837-0040
www.houstontx.gov

March 19, 2010

General Appeals Board
c/o Maria Vrana, City Secretary
City of Houston
3300 Main Street, 2nd Floor
Houston, TX 77002

General Appeals Board
c/o Gary Bridges
Chief Building Official
Public Works and Engineering
City of Houston
3300 Main Street, 2nd Floor
Houston, TX 77002

Sent Via Certified Mail, RRR #

Re: Response to Appeal to General Appeals Board by Trinity Lutheran Church

Members of the General Appeals Board:

This communication is in response to the correspondence sent to the General Appeals Board (the "GAB") on March 11, 2010, regarding the LED sign located at 800 Houston Avenue, Houston, Texas (the "Sign"), and owned by Trinity Lutheran Church (the "Church").

I. Background

In a letter to the City dated December 23, 2009 (attached hereto as Exhibit A), the Church's attorney, Richard Rothfelder, alleged that the Sign is not subject to regulation by Chapter 46 of the Building Code of the City of Houston (the "Sign Code"). Mr. Rothfelder objected to a notice of sign violation that was issued to the Church on December 21, 2009, arguing that the Sign need not comply with Sign Code provisions for changeable message and LED signs because the Sign contains non-commercial

messages and existed prior to the passage of Ordinance No. 2009-655, which governs changeable message signs.

In a letter to Mr. Rothfelder dated March 3, 2010 (attached hereto as Exhibit B), the City, through Senior Assistant City Attorney Larry Schenk, asserted that the Sign Code does apply to the Sign. Mr. Schenk explained that Ordinance 2009-655 accomplished two significant objectives: 1) to expand the definition of sign to include displays used for informative purposes; and 2) to regulate all changeable message signs, including existing signs.

The communication to the GAB from Mr. Rothfelder (attached hereto as Exhibit C) followed. The City's rebuttal of Mr. Rothfelder's position is stated herein.

II. Analysis

The issue here is quite simple. The Sign, which displays information about activities and events at the Church, is used for informative purposes. Under the current definition of "sign" in Section 4602 of the Sign Code (attached hereto as Exhibit D), the informative display utilized by the Church qualifies as a sign, since such a display need not be commercial to qualify as a sign. Additionally, there is no dispute between the parties as to the nature of the Sign: as Mr. Rothfelder himself has stated, the Sign is a changeable message sign. Finally, Section 4611(h) of the Sign Code (attached hereto as Exhibit E), which regulates duration and brightness of electronic signs, explicitly applies to "all *existing*. . . changeable message and high technology signs" (emphasis added).

Mr. Rothfelder's argument that a grandfathered sign is grandfathered without any limitation on the changing of the frequency of the message is simply not true. Grandfathered structures can still be the subject of reasonable regulation. The fact that the Sign existed before September 1, 2009 (the effective date of Ordinance No. 2009-655), is irrelevant to the question of the application of Section 4611(h) to the Sign. Thus, the Sign is not exempt from Sign Code regulations on duration and brightness. Indeed, as noted in the City's previous response to Mr. Rothfelder, the referenced ordinance provisions applicable to the Sign require no substantive structural changes to the Sign, and Mr. Rothfelder has not argued that they do.

Finally, Mr. Rothfelder's reference to the February 2007 correspondence from the previous Sign Administrator characterizing the Sign as not being subject to Sign Code regulations is irrelevant; the ordinance making the Sign subject to Section 4611(h) was passed two years later.¹

¹ To clarify, the permit issued in February 2007 was *not* a sign permit; instead, it was an electrical wiring permit that is required under the Building Code for all electric-based uses. The only purpose of the permit is to certify that the electrical wiring has been inspected and deemed safe by the City. It is a one-time permit issued before the electrical use goes "live" for the first time. In sum, the issuance of an electrical wiring permit in 2007 is irrelevant to the question of whether the Sign Code applies to the Sign today.

III. Conclusion

For the foregoing reasons, Sign Administration respectfully requests that the GAB uphold the City's position that the Sign is governed by the Sign Code and must be brought into compliance with the applicable regulations.

Sincerely,

Katherine Tipton
Division Manager, Sign Administration
Department of Public Works and Engineering

enc.

cc: Larry W. Schenk, Senior Assistant City Attorney
Richard L. Rothfelder, Attorney for Trinity Lutheran Church



TRINITY

Downtown

LUTHERAN CHURCH & SCHOOL

JESUS IS LORD

DAKTRONICS

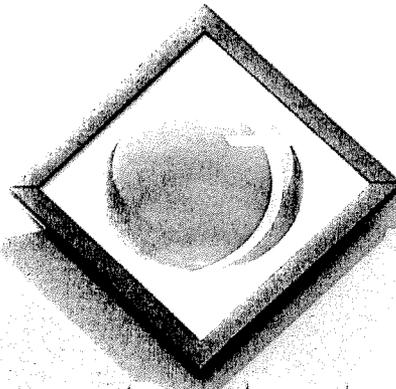
GALAXY

www.trinitydt.org

Established 1879

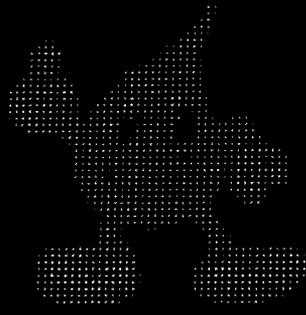


800 Houston Ave



TRINITY
Downtown

LUTHERAN CHURCH & SCHOOL



Blood Drive
June 6, 2010
7:00 AM - 1 PM

DAKTRONICS

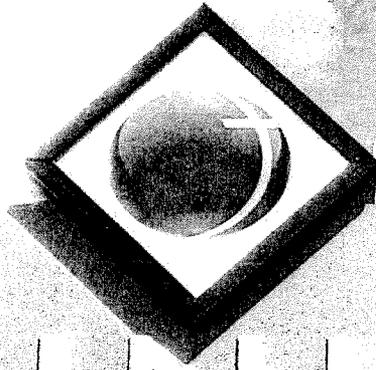
GALAXY

www.trinitydt.org

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800 WILSON AVENUE



TRINITY

Downtown

LUTHERAN CHURCH & SCHOOL

Congratulations
Knappe Chevy
We thank God for
our good neighbors!

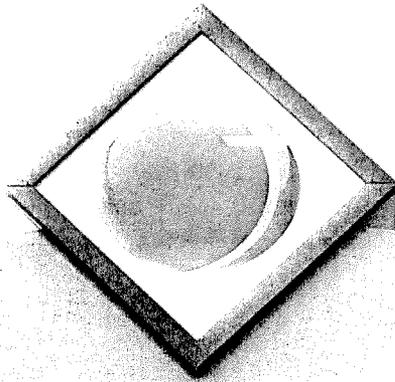
DAKTRONICS GALAXY

www.trinitydt.org

Established 1879



800 Wolfson Ave.



TRINITY

Downtown

LUTHERAN CHURCH & SCHOOL

Cast all your cares
on Him, for He cares
for you!

DAKTRONICS

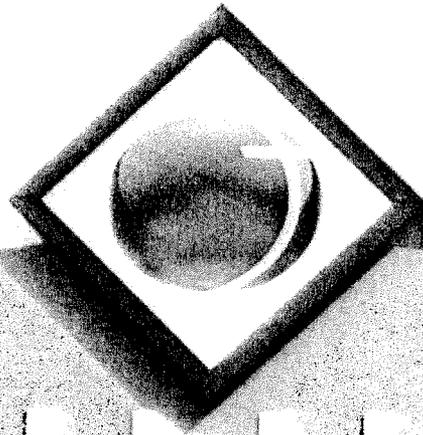
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Established 1879



800 Houston Ave



TRINITY

Downtown

LUTHERAN CHURCH & SCHOOL

NOW ACCEPTING
APPLICATIONS
KDG- GRADE 8
'07-'08 SCHOOL YEAR

DAKTRONICS

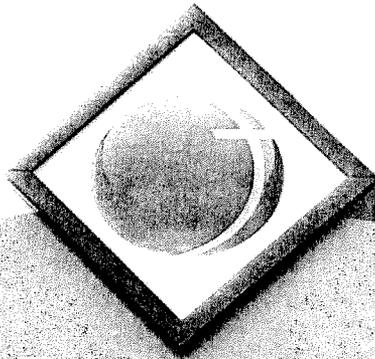
GALAXY

www.trinitydt.org

Established 1879



800 Houston Ave



TRINITY

Downtown

LUTHERAN CHURCH & SCHOOL

Join Us For Worship
Sunday Mornings
8:15 AM 9:31 AM 11:00 AM

DAKTRONICS

GALAXY

www.trinitydt.org

Established 1879



800 Houston Ave.

30

SEP 22 2010

MOTION NO. 2010

MOTION by Council Member Clutterbuck that the recommendation of the Director of the Houston Airport System, for approval of final contract amount and acceptance of work on contract with TJ&T Enterprises, Inc., for Wetlands Creation at Westside Mitigation Area, Project No. 586A, WBS No. A-000475-0001-4-01-01, be adopted, and the final contract amount of \$2,150,653.26 is hereby approved by the City Council and the work be accepted and final payment is hereby authorized.

Seconded by Council Member Lovell

Council Member Adams absent on City business

On 9/15/10 the above motion was tagged by Council Member Jones.

cr

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

Subject: Accept Work – TJ&T Enterprises, Inc. for Wetlands Creation at Westside Mitigation Area. Project No. 586A (WBS# A-000475-0001-4-01-01; Contract No. 4600008691)	Category # 7	Page 1 of 1	Agenda Item # 30-8
FROM (Department or other point of origin): Houston Airport System	Origination Date August 16, 2010	Agenda Date SEP 15 2010	
DIRECTOR'S SIGNATURE: <i>M. Lee</i> <i>Maud J. Lee</i>	Council District affected: SEP 22 2010 All		
For additional information contact: Eric R. Potts <i>ERP</i> Phone: 281-233-1999 Robert Bielek <i>RB</i> 281-233-1941	Date and identification of prior authorizing Council action: 03/26/2008 (O) 2008-239		
AMOUNT & SOURCE OF FUNDING: None	Prior appropriations: 03/26/2008\$2,277,587.00 Airport Improvement Fund (8011)		

RECOMMENDATION: (Summary)
Pass a motion to approve the final contract amount of \$2,150,653.26 or 4.81 percent more than the original contract amount, accept work, and authorize final payment.

SPECIFIC EXPLANATION:

The contractor, TJ&T Enterprises, Inc., has completed all the work required under their contract in the amount of \$2,051,880.00 for wetlands creation at the Westside Mitigation Area. During construction, the Houston Airport System inspected this project.

The final amount of the contract, including Change Order No. 1 in the amount of \$102,594.00 and an overall line item underrun in the amount of \$3,820.74, will be \$2,150,653.26, which is 4.81 percent more than the original contract amount. Changes were for unforeseen conditions that were undetermined at the time of design and necessitated additional corrugated PVC piping for improved drainage and the cutting, removal and disposal of trees (per USDA guidelines) to maintain the wetlands site.

TJ&T Enterprises, Inc. achieved 4.92% DBE participation on a 14% goal. The shortfall was due to the subcontractor not being able to deliver fuel to the contractor during construction. The Office of Affirmative Action and Contract Compliance and the HAS Small Business Development and Contract Compliance Office gave TJ&T Enterprises, Inc. a "Satisfactory" rating.

This item went to MWBE Committee on 8/30/10. No action was taken due to lack of quorum.

REQUIRED AUTHORIZATION			NDT
Finance Department:	Other Authorization:	Other Authorization:	



SUMMARY OF MWDBE ACTIVITIES

Project Number / Name: Aviation 586A - Wetlands Creation at Westside Mitigation Area Contract/CIP No: A-0475, AIP3-48-4812
 Prime Contractor: T&T Enterprises, Inc.
 Amount of Contract: \$2,051,880.00 Change Orders: \$102,594.00 Amount of Underruns: -\$3,820.74
 Total Contract Amount: \$2,150,653.26

MWDBE Goal At Award of Contract: 14.00% Amount of MWDBE Goal Including Change Orders: \$301,626.36

Original MWDBEs Listed on RCA and Letter of Intent: _____
 A-1 Hydro-Mulching of Texas, Inc. _____
 Corporate Results, Inc. _____
 Deanie Hayes, Inc. _____
 TNL, Inc. _____

MWDBEs Used: _____
 A-1 Hydro-Mulching of Texas, Inc. _____
 Corporate Results, Inc. _____
 Deanie Hayes, Inc. _____
 TNL, Inc. _____

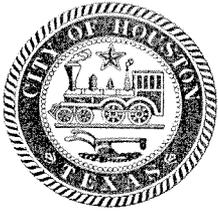
MWDBE actual participation: 4.92% Verified by: M.J. Martin Date: May 24, 2010
 If goal was not achieved, list the amount and shortage. Briefly state the reason given by prime why the goal was not achieved and why the original MWDBEs listed in the RCA were not used _____

Prime Contractor was 9.08% short of the assigned goal as to the reasons outlined in the attached GFE correspondence. As such, the SBDCC office of the HAS affirms with the reasons as outlined in Mr. Pierre's correspondence to Director Laws. _____
 Briefly state the reason given by MWDBE why they were not used or not used to the full amount originally projected: _____

[Signature]
Michael J. Martin, CCA
 Sr. Contract Compliance Officer
 HAS - SBDCC

APPROVED BY:
[Signature]
J. Goodwille Pierre
 Division Manager
 HAS - Small Business Development Contract Compliance

[Signature]
 Date 24-May-10



CITY OF HOUSTON

Annise D. Parker

Mayor



George Bush Intercontinental ~ William P. Hobby ~ Ellington Airport

Mario C. Diaz
Director of Aviation

May 19, 2010

Mrs. Velma Laws
Director
Mayor's Office Affirmative Action and Contract
Compliance Division
611 Walker Street
Houston, Texas 77002

Reference: Aviation Project 586A – Wetlands Creation at the Westside Mitigation Area
TJ&T Enterprises, Inc. (Prime)

Dear Mrs. Laws:

We have reviewed and evaluated TJ&T Enterprises, Inc.'s Good Faith Efforts (GFE) regarding the project listed above. Our findings have determined that with the amount of full utilization of TNL, Inc. the current utilization percentage would have placed the total utilization for this project at 15.50%.

The Disadvantaged Business Enterprise (DBE) goal for this project was set at 14% and the contract amount was \$2,051,880.00.

- TJ&T Enterprises, Inc. current DBE participation is at 4.916%
- TJ&T Enterprises, Inc. obtained additional work via PDC Change Order/CO No.1 valued at \$102,594.00.
- The scope of work was to replace the eastern berms and concrete weirs with new ones that were designed to better resist the effects of erosion. The scope of service offered 14% of DBE opportunities, of which, 9.75% of the overall DBE goal was made available for TNL, Inc. a Diesel Fuel Supplier
- Because the Principal Representatives of TNL, Inc. did not have any trucks or fuel tanks to transport diesel fuel; was not qualified by the State of Texas to purchase untaxed diesel; and did not hold a Surety Bond, TJ&T Enterprise, Inc. was not able to meet the DBE assigned goal
- However; despite the TNL, Inc. not possessing the initial qualifications to meet a portion of the scope; the Prime contractor was still committed to the DBE certified contractor by purchasing various additional fuels needs from them

Council Members: Wanda Adams C.O. "Brad" Bradford Anne Clutterbuck Stephen C. Costello Edward Gonzalez Al Hoang Jarvis Johnson Jolanda "Jo" Jones
Sue Lovell Melissa Noriega Oliver Pennington James G. Rodriguez Brenda Stardig Mike Sullivan Controller: Ronald C. Green

George Bush Intercontinental: PO Box 60106 Houston, Texas 77205-0106 ~ Phone: 281 230-3100 ~ Fax: 281 230-3108
www.Fly2Houston.com. ~ www.houstontx.gov

After careful review and evaluation, I have determined that TJ&T Enterprise, Inc. made several "Good Faith Efforts" (GFE) to the fullest extent possible to meet the 14% assigned DBE goal.

The decision is based on the facts that:

- 1) Change Order/CO No.1 valued at \$102,051.00, increased the initial total on this contract to \$2,154,474.00;
- 2) Minus the Change Order, TJ&T's goal (Less TNL, Inc's full participation) would stand at 9.084%
- 3) TJ&T Enterprises, Inc. pro-active and personal pursuit to support the subcontractor (TNL, Inc.) in meeting and obtaining their credentials as a diesel fuel supplier, demonstrated "excellent" Good Faith Efforts

If you have any questions or need additional information, please contact me at 281-233-7833.

Sincerely yours,



J. Goodwille Pierre, Esq.
Manager, Houston Airport System
Small Business Development Contract Compliance Office



Approved/Date
Velma Laws, Director
Mayor's Office Affirmative Action and Contract Compliance

Council Members: Wanda Adams C.O. "Brad" Bradford Anne Clutterbuck Stephen C. Costello Edward Gonzalez Al Hoang Jarvis Johnson Jolanda "Jo" Jones Sue Lovell Melissa Noriega Oliver Pennington James G. Rodriguez Brenda Stardig Mike Sullivan Controller: Ronald C. Green

TJ&T

Enterprises, Inc.

1525 Lakeville Dr., Suite 109
Kingwood, TX 77339
Telephone (281) 348-0853
Facsimile (281) 348-0854

July 21, 2008

Velma Laws
Director
City of Houston Affirmative Action & Contract Compliance
611 Walker
Houston, TX 77002

RE: The City of Houston Airport System job; "Wetlands Creation at the Westside Mitigation Area" HAS 586A

Ms. Laws,

TJ&T Enterprises, Inc. is the General Contractor for the Houston Airport System job referenced above. Prior to bidding this job, we were introduced to Mr. Sherman Lewis by Mr. Michael Martin and Mrs. Janice Ruley of your office. Mr. Lewis was newly certified by the City as a MDBE fuel supplier and we recognized this as a primary method of meeting the MWDBE goal % for the job. We were in fact the winning bidder and in February, 2008 I met personally with Mr. Sherman Lewis and his son at their place of business to discuss how we would work together on the project.

At that time, Mr. Lewis did not have any trucks or fuel tanks so I spent some time talking with he and his son about what I thought of the opportunity as a MDBE fuel supplier and strongly suggested they prepare themselves to begin distributing non taxed diesel fuel by obtaining some fuel tanks and trucks, even if they had to lease them in the beginning. I felt they were both very aware of the opportunity and commitment required when I left them.

As we prepared to start the job in May, 2008, we met Mr. Lewis at the pre-construction meeting and found that he still had no tanks or trucks. We suggested he call our normal supplier (Southcoast Resources) and get tanks from them. If necessary, we offered to purchase fuel from Southcoast through Mr. Lewis at a mark up until he was able to get his tanks and trucks so we could make our Goal.

Unfortunately, when it came time to order fuel, we also found out Mr. Lewis was not qualified by the State of Texas to purchase untaxed diesel. He had literally done nothing to prepare for selling fuel. In fact, I had to personally contact the State Comptrollers office to find out exactly what he needed to do to qualify. The qualifications are simple, complete an application and provide a surety bond. Even then, it has taken several weeks for this to be completed. We were contacted by Mr. Lewis on July 10, 2008 informing us that he was now qualified by the State to purchase untaxed fuel.

Our fuel purchases for this job were, by far, the major portion of our MWDBE goal %. Because of Mr. Lewis' inability to provide fuel, we have had to purchase from our normal supplier. We are 80-85% complete on the job at this point and will purchase any additional fuel needs through Mr. Lewis, but as a result of his inability to sell to us we will fall very short of our Goal.

We request an exception to our Contract based on these facts. Mr. Michael Martin has been in communication with us during this process as has Mrs. Janice Ruley. I believe they will both agree that we have attempted in good faith to reach our goal, but have been unable to do so because of the situation explained above.

If you have any questions, you can reach Jerry Wade at 713-248-7971 or Joe Broadhurst at 281-615-1305.

Sincerely,

Joe Broadhurst

31-31A

SEP 22 2010

MOTION NO. 2010

MOTION by Council Member Clutterbuck that the recommendation of the Purchasing Agent, on bids received for Structural Remediation at Fire Station No. 29 for the General Services Department, S50-C23678, be adopted, and authority is hereby given to issue purchase orders as necessary to Baseline Paving and Construction, Inc., on their low bid in the amount of \$109,847.00 and contingencies (10% for unforeseen changes within the scope of work) in the amount of \$10,984.70 for a total amount not to exceed \$120,831.70.

Seconded by Council Member Sullivan
Council Member Adams absent on City business

On 9/15/10 the above motion was tagged by Council Member Jones.

cr

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8814

Subject: Formal Bids Received for Structural Remediation at Fire Station No. 29 for the General Services Department S50-C23678

Category # 4	Page 1 of 2	Agenda Item
31 + 31A		##/##

FROM (Department or other point of origin):
Calvin D. Wells
City Purchasing Agent
Administration & Regulatory Affairs Department

Origination Date
August 16, 2010

Agenda Date
SEP 22 2010
~~SEP 15 2010~~

DIRECTOR'S SIGNATURE
Calvin D. Wells

Council District(s) affected
1

For additional information contact:
Jacquelyn L. Nisby Phone: (832) 393-8023
Ray DuRousseau Phone: (832) 393-8726

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an ordinance authorizing the appropriation of \$120,831.70 out of the Fire Consolidated Construction Fund (Fund 4500) and approve an award to Baseline Paving and Construction, Inc. on its low bid in the amount of \$109,847.00 and contingencies (10% for unforeseen changes within the scope of work) in an amount of \$10,984.70 for a total not to exceed \$120,831.70 for structural remediation at Fire Station No. 29 for the General Services Department.

Award Amount: \$120,831.70

Finance Budget

\$120,831.70 - Fire Consolidated Construction Fund (4500) WBS No. C-000182

SPECIFIC EXPLANATION:

The Purchasing Agent recommends that City Council approve an ordinance authorizing the appropriation of \$120,831.70 out of the Fire Consolidated Construction Fund (Fund 4500). It is further recommended that City Council approve an award to Baseline Paving and Construction, Inc. on its low bid in the amount of \$109,847.00 and contingencies (10% for unforeseen changes within the scope of work) in the amount of \$10,984.70 for a total not to exceed \$120,831.70 for structural remediation at Fire Station No. 29 for the General Services Department and that authorization be given to issue purchase orders as necessary. The remediation consists of the stabilization of the existing apparatus slab and the replacement of the south exterior wall, which has been compromised due to slab settlement.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Sixteen prospective bidders downloaded the solicitation document on SPD's e-bidding website and four bids were received as outlined below:

<u>Company</u>	<u>Total Amount</u>
1. Baseline Paving and Construction, Inc.	\$109,847.00
2. Watlee Construction, Inc.	\$118,497.00
3. Garcia Commercial Contractors Builders	\$127,077.00
4. Momentum Contractors, Inc.	\$144,000.00

The scope of work requires the construction contractor to provide all supervision, labor, materials, equipment, machinery, tools, transportation and ancillary items necessary to demolish the existing exterior masonry wall; install a new exterior masonry wall and concrete piers to repair the foundation at Fire Station No. 29, located at 4831 Galveston Road. The contractor shall also be required to repair the roof and replace the coping/flushing, acoustical ceiling tiles and paint the interior of the facility as needed. Materials and workmanship shall be warranted for one-year and the contractor shall have 30 calendar days to complete the work on this project upon receipt of the notice to proceed.

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

MO

Date: 8/16/2010	Subject: Formal Bids Recieved for Structural Remediation at Fire Station No. 29 for the General Services Department S50-C23678	Originator's Initials AL	Page 2 of 2
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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.

Buyer: Art Lopez

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Amendment No. 2 to Professional Engineering Services Agreement with Concept Engineers, Inc. for Miscellaneous Projects for the Houston Airport System; Project No. 615J (WBS #A-000138-0017-3-01 ; Contract No. 4600008356)		Category # 7	Page 1 of 2 # <div style="border: 1px solid black; padding: 5px; display: inline-block;"> 32 25 </div>
FROM (Department or other point of origin): Houston Airport System	Origination Date August 5, 2010	Agenda Date SEP 15 2010 SEP 22 2010	
DIRECTOR'S SIGNATURE: <i>M. Kae</i> <i>Eric R. Potts</i>	Council District affected: B, E & I		
For additional information contact: Eric R. Potts <i>ERP</i> Phone: 281-233-1999 Robert Bielek <i>RB</i> 281-233-1941	Date and identification of prior authorizing Council action: 10/17/2007 (O) 2007-1162 08/05/2009 (O) 2009-730		
AMOUNT & SOURCE OF FUNDING: CIP No. A-0138.83 \$200,000.00 Arpt Improvement Fd (8011) <i>J</i> <i>new</i>	Prior appropriations: 10/17/07 \$200,000.00 Arpt Improvement Fd (8011) 08/05/09 \$200,000.00 Arpt Improvement Fd (8011) Total \$400,000.00		
RECOMMENDATION: (Summary) Enact an ordinance to approve Amendment No. 2 to Professional Engineering Services Agreement with Concept Engineers, Inc. for miscellaneous projects and appropriate the necessary funds to finance the cost of these services.			
SPECIFIC EXPLANATION: <p>On October 17, 2007, Council approved a contract for professional engineering services with Concept Engineers, Inc. to provide professional engineering services for miscellaneous projects at George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU), and Ellington Airport (EFD). Services provided to date include condition assessment of three structures at EFD, evaluation of corrosion on the parking structure at HOU and the preparation of design and construction documents for repairs to facilities damaged by Hurricane Ike at IAH, HOU and EFD.</p> <p>On August 5, 2009, Council approved Amendment No. 1 to provide funding for additional miscellaneous engineering services, including repairs to facilities damaged by Hurricane Ike at IAH, HOU and EFD to expedite the design and repair process and return the affected facilities to full service.</p> <p>It is now requested that Council approve Amendment No. 2 to provide funding for additional miscellaneous engineering services support in the form of field evaluation, analysis and design of structural systems at IAH, HOU and EFD that include the following:</p> <ul style="list-style-type: none"> • Engineering and design services for miscellaneous projects. • Design and construction documents to repair the control tower at EFD. These repairs will preserve the useful life of the existing control tower until a new one is constructed. <p>The proposed contract amendment 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.</p>			
REQUIRED AUTHORIZATION			
Finance Department:	Other Authorization:	Other Authorization:	

ND

Date August 5, 2010	Subject: Amendment No. 2 to Professional Engineering Services Agreement with Concept Engineers, Inc. for Miscellaneous Projects for the Houston Airport System; Project No. 615J (WBS #A-000138-0017-3-01 ; Contract No. 4600008356)	Originator's Initials RLN	Page 2 of 2
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M/WBE PARTICIPATION: The M/WBE goal for this contract is seven and one half percent (7.5%) and will be met by the following certified firms:

Firms	Type of Work	Amount	% of Contract
B & E Reprographics, Inc.	Printing	\$ 4,000.00	2.0%
Redline Courier Express, Inc.	Courier Service	\$ 1,000.00	0.5%
Tejas Office Products, Inc.	Office Supply	\$ 2,000.00	1.0%
ESPA Corp.	Architectural Services	<u>\$ 8,000.00</u>	<u>4.0%</u>
	Total	\$15,000.00	7.5%

Concept Engineers, Inc. is currently achieving 6.63% M/WBE participation on a 7.5% goal.

At the request of HAS, Concept Engineers, Inc. performed professional engineering services in response to damages resulting from Hurricane Ike in which there was limited opportunity to achieve the goal of 7.5% due to the limited scope of services and the emergency nature of the request. Since then, the contractor has recovered part of the shortfall and remains committed to achieve the goal by working closely with HAS Small Business Development and Contract Compliance Office.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #

SUBJECT: Ordinance approving an infrastructure development agreement between the City and Ainbinder Heights, LLC ("Developer") pursuant to Chapter 380, Texas Local Government Code.

Category #

Page 1 of 1

Agenda-Item#

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FROM: (Department or other point of origin):

Andy Icken, Chief Development Officer
Mayor's Office



Origination Date

Agenda Date

~~SEP 15 2010~~
SEP 22 2010

SIGNATURE:

Council Districts affected:

Council Member Gonzalez, District H

For additional information contact:

Tim Douglass
Keith R. Phillips

Phone: 713-837-9857
Phone: 713-837-0610

Date and identification of prior authorizing Council Action:

Ordinance No. 99-674 dated 6/30/99

RECOMMENDATION: (Summary) Ordinance approving an infrastructure development agreement between the City and Ainbinder Heights, LLC ("Developer") pursuant to Chapter 380, Texas Local Government Code.

Amount of Funding:

Finance Budget:

SOURCE OF FUNDING:

General Fund Grant Fund Enterprise Fund
 Other (Specify)

SPECIFIC EXPLANATION:

In 1989, the State legislature adopted Chapter 380.001 of the local government code to create a mechanism that municipalities could use for granting or loaning local tax revenue for economic development purposes. Subsequently, by Ordinance No. 99-674, the City of Houston authorized a Chapter 380 loan/grant program to provide the City with an additional tool to encourage development in targeted areas to help stimulate new business growth.

The Mayor's Economic Development Division intends to offer performance-based rebates of the City's portions of its ad valorem taxes and sales and use taxes ("Taxes") to commercial and residential development projects. The performance-based tax rebates will be determined solely upon post-project proven increases in Taxes assessed and collected after the projects are operational and the Taxes can be accurately measured. The rebates will be equal to the incremental increases in Taxes in the economic impact area from the base year (year prior to project commencement) and a pre-determined time period stipulated in each development agreement. The rebates will only reimburse the recipient for public infrastructure. At no time will the City's rebates exceed the recipients' actual costs.

The Developer intends to construct a multi-tenant retail project totaling an estimated 242,000 square feet on approximately 24 acres known as 'Washington Heights'. The Developer will extend off-site City water, sewer, and drainage facilities, improve City streets and roads, install traffic signals, enhance street lighting and sidewalks, improve the appearance of the existing bridges over White Oak Bayou, and upgrade the landscaping beyond the minimum COH landscape requirements. ("Public Infrastructure"). The total estimated costs of the Public Infrastructure, which will also benefit other properties in the area, are not expected to exceed \$6 million. The City will reimburse the Developer for the Public Infrastructure costs by rebating the increase in ad valorem and sales taxes from the project's base year, not to exceed the actual costs and associated interest attributable to the Public Infrastructure. Developer shall satisfy all permitting requirements, including but not limited to detention and building permitting requirements. Building permits will not be issued until a city approved traffic study shows that the development mitigates to acceptable levels of traffic impact.

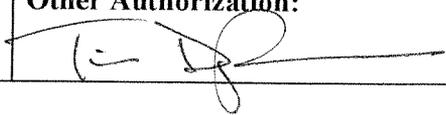
cc: Marty Stein, Agenda Director
Anna Russell, City Secretary
David Feldman, City Attorney
Deborah McAbee, Senior Assistant City Attorney

REQUIRED AUTHORIZATION

Finance Director:

Other Authorization:

Other Authorization:



REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA#

Subject: Approve a contract with Sogeti USA, LLC to provide analysis and design of a queuing and payment system for the Houston Permitting Center.

Category #

Page 1 of 2

Agenda Item

[34 / 28]

FROM (Department or other point of origin):

Alfred J. Moran, Jr., Director
Administration & Regulatory Affairs Department

Origination Date

August 24, 2010

Agenda Date

SEP 22 2010
~~SEP 15 2010~~

DIRECTOR'S SIGNATURE

Council District(s) affected
All

For additional information contact:

Greg Damianoff Phone: (713) 221-0127
Mark Stinnett Phone: (832) 393-0200

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve a contract with Sogeti USA, LLC to provide analysis and design of a queuing and payment system for the Houston Permitting Center.

Maximum Contract Amount: \$535,000

Finance Budget

\$ 535,000.00 – Contract Allocation
\$ 15,000.00 – Support Cost

\$ 550,000.00 – Total Appropriation – Reimbursement of Equipment/Projects Fund (1850)

SPECIFIC EXPLANATION:

The Mayor's Transition Committee on Permitting (the Committee) focused specifically on customer service in the new Houston Permitting Center. To address concerns regarding how the Houston Permitting Center will functionally streamline the permitting process for customers, the Committee recommended that the Houston Permitting Center should utilize technology to enable the efficient management of the entire permitting process. Reconstruction of the building at 1002 Washington to house the majority of the City's permitting functions by summer 2011 is underway. This recommendation focuses specifically on the enhanced customer service technology to ensure the building will efficiently and effectively process customer permitting requests.

The directors of the Administration & Regulatory Affairs (ARA), Information Technology (ITD) and Public Works & Engineering (PWE) departments recommend approval of a contract with Sogeti USA, LLC (Sogeti) to provide analysis and design for an Enterprise Point of Sale system and an evaluation of the customer queuing system for the Houston Permitting Center.

The City of Houston issues over 435,000 permits each year and collects over \$50 million in fees. There are over 250 distinct types of permits issued by several departments. The variety and scope of activities covered by the City's permitting processes, combined with the need to deal directly with the issuing department, has historically created significant challenges for citizens needing multiple permits.

As part of the One Stop Permitting Initiative, the City of Houston is developing the Houston Permitting Center located at 1002 Washington Avenue. The Houston Permitting Center will be a state-of-the-art facility providing comprehensive customer service allowing citizens to obtain required permits, make one payment and have access to knowledgeable customer service staff to answer questions and resolve issues.

REQUIRED AUTHORIZATION

Other Authorization:

Richard Lewis, Director
Information Technology Department

Other Authorization:

Daniel Krueger, Director
Public Works & Engineering

Other Authorization:

Date: 8/24/2010	Subject: Approve a contract with Sogeti USA, Inc. to provide analysis and design of a queuing and payment system for the Houston Permitting Center.	Originator's Initials CAN	Page 2 of 2
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The requested appropriation will provide contract funding in the amount of \$535,000.00, plus \$15,000.00 for support costs for the first of four potential stages of this project. Support assets will be purchased through the informal bid process and existing contracts. The scope of work for Stage I requires Sogeti to provide personnel, management, supervision, labor, equipment and incidentals to conduct analysis, design and requirements definition for the Enterprise Point of Sale, Queuing, and Systems Integration to existing legacy permitting systems, such as ILMS and GovPartner. Sogeti will first determine if PWE's existing UCS platform may function as the Enterprise Point of Sale solution for the Houston Permitting Center. Sogeti will also propose a detailed Work Plan and scope of work for Stage II. Stage I is expected to require at most 14 weeks to complete.

Stages II-IV would focus on Systems Development, Implementation and Support, respectively. The Houston Permitting Center is scheduled to open in mid-summer 2011. The total allocation required to integrate a single Enterprise Point of Sale and queuing system for the One Stop Permitting Initiative at the Houston Permitting Center is estimated to be from \$2,760,000.00 to \$4,260,000.00, dependant on whether the UCS platform may be utilized. The potential remaining contract funding and support costs will be subject to future Council approval.

Approximately 500 non-inspection personnel will transfer to the Houston Permitting Center from their current offices in the various departments which are transferring to the Center. This project will consolidate functions of some cashiers, customer service representatives, receptionists, and administrative staff currently conducted by various departments. The City forecasts a 2% reduction in non-inspection FTEs as a result of this consolidation of functions.

The Strategic Purchasing Division (SPD) publicized a Request for Qualifications (RFQ) on its e-bidding website. Submissions were received from IBM, Endeavor Management, Howard R. Green, Jefferson, PMO-Link, Sogeti USA, Zucker, UHY, Maverick, and GTSI. Sogeti USA, Inc. was ultimately selected due to their substantial prior experience implementing Point of Sale solutions.

The Reimbursement of Equipment/Projects Fund will be reimbursed by permitting revenue dedicated to that purpose.

MWBE Participation:

This professional services contract has been assigned a 15% M/WBE participation goal. Sogeti USA, Inc. has designated Precision Task Group (PTG) to provide information technology services.

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 provides health benefits to eligible employees in compliance with City policy.

The affirmative action division will monitor this contract.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8845

Subject: Ordinance Appropriating Funds from the Equipment Acquisition Consolidated Fund and Authorizing a First Amendment to Houston Municipal Court Case Management System Contract with Sogeti USA, LLC

Category # Page 1 of 3 Agenda Item

9	35	38	24
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FROM (Department or other point of origin):

Richard Lewis
Chief Information Officer
Information Technology

Origination Date

August 24, 2010

Agenda Date

~~SEP 01 2010~~

~~SEP 15 2010~~

SEP 22 2010

DIRECTOR'S SIGNATURE

Richard Lewis

Council District(s) affected
All

For additional information contact:

Earl M. Lambert Phone: (832) 393-0038
Frank Rodriguez Phone: (832) 393-0205

Date and Identification of prior authorizing Council Action:

Ord. 2009-863 passed 9/16/2009

RECOMMENDATION: (Summary)

Adopt an ordinance appropriating \$3,000,000.00 from the Equipment Acquisition Consolidated Fund (1800) and authorize a first amendment to Contract between the City of Houston and Sogeti USA, LLC for Houston Municipal Court Case Management System.

Amount and Source of Funding:

\$3,000,000.00 - FY11 Equipment Acquisition Consolidated Fund WBS: X-160017

Finance Budget

SPECIFIC EXPLANATION:

Background: The Information Technology Department is building a new computer system to manage the 1.2 million new cases processed annually by the Houston Municipal Courts, following the determination that there is no "off-the-shelf" software that can meet the Courts' volume and other specific requirements. The new system is being developed based on a Service Oriented Architecture using Microsoft development tools.

City Council has approved prior appropriations of \$6,810,000 for the design of the new Courts System. Over the past eleven months, ITD, working directly with both the Municipal Courts Judicial and Administrative Departments, developed a Detail Design for the new Case Management System, which has been named the Court System Management and Technology Resources (CSMART). The design includes working prototypes of the key screens that will handle over 80% of the daily transactions performed in the Houston Municipal Courts, detail process maps that document all of the new Court processes, working functionality that will automate the violation coding process for most traffic violations, and prototypes for the key reports in the list of 125 reports that need to be developed. This design effort has been completed at a cost of under \$5.2 million, leaving a balance of approximately \$1.6 million which will be applied to the development phase.

CSMART will automate many of decisions that currently require millions of manual actions each year. Also, it will eliminate much of the manual work performed by the judges and the multiple steps involved in case resets. The new design will enhance the services provided by the Courts to the defendants' attorneys and bonding companies. Finally, it defines significant changes in the interfaces between the systems used by HPD and the new Courts System. These changes will address many of the issues around warrant verification, posting bonds for individuals that have been arrested, providing timely processing of the jail dockets, and handling the subpoena process.

ITD presented a status briefing on the CSMART implementation at the August 3, 2010 meeting of the Budget and Fiscal Affairs Committee.

Procurement: In March 2009, ITD issued a Request for Qualifications (RFQ) for professional services firms with the skills required to develop large, complex business applications. Thirty-one firms responded to the RFQ. Nine of the submissions were selected for a detail review by the evaluation team and four of the nine were invited to make presentations to demonstrate their qualifications. Based on the results of the presentations, Sogeti USA, Inc. was selected to assist with the Detail Design, and Council approved a professional services contract in September 2009.

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

NDT

Date: 8/12/2010	Subject: Ordinance Appropriating Funds and Authorizing a First Amendment to Houston Municipal Court Case Management System Contract	Originator's Initials FR	Page 2 of 3
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Over the past twelve months, Sogeti has played a key role in the design of CSMART and the success of the development effort depends on the continuing involvement of the Sogeti personnel.

Approach

City personnel will manage the development of CSMART, and Sogeti will assist on a time and material basis. This approach will achieve significant cost savings and provide the opportunity to develop internal resources that are capable of applying the technology used to develop CSMART to other needs of the City. Although this approach requires the City to assume some of the project risks typically assumed by a fixed-fee contractor, ITD has mitigated that risk through a strong governance structure, with a project team composed of experienced and motivated City employees. The project Steering Committee, which includes a representative of the Mayor's executive staff, the City's Chief Information Officer, Presiding Judge, Chief Clerk, Chief Prosecutor, and an HPD Assistant Chief, will provide executive oversight for the project, make key project decisions, and approve key deliverables to ensure that the project achieves its objectives. Project implementation is targeted for March 2012.

Project Budget

The project budget for development of CSMART is based on the design approved by the Project Steering Committee in June 2010 and the work plan developed by the Project Team. The work plan identifies the tasks that have to be performed to develop CSMART, staffing requirements, and staffing schedules. The following table provides a summary of the budget for the entire project:

Category	Detail Design Phase	Transition Phase	Development Phase	Total Design & Development	UAT & Training	Total
Salary & Benefits	\$ 1,315,000	\$ 228,900	\$ 4,125,000	\$ 5,668,900	\$ 1,680,000	\$ 7,348,900
Professional Services	2,404,915	580,000	5,563,500	8,548,415	-	8,548,415
Hardware / Software	522,585	-	1,693,000	2,213,584	-	2,213,584
Lease	-	-	240,000	240,000	90,000	330,000
Space Buildout	50,000	-	-	50,000	-	50,000
Telecommunications	8,000	2,100	33,000	43,100	-	43,100
Furniture	80,500	-	-	80,500	-	80,500
Operating Expenses	-	-	150,000	150,000	30,000	180,000
Contingency	-	-	1,180,500	1,180,500	-	1,180,500
Project Total	4,381,000	811,000	12,985,000	18,175,000	1,800,000	19,975,000
Data Cleansing	-	-	1,000,000	1,000,000	-	1,000,000
Total Costs	\$ 4,381,000	\$ 811,000	\$ 13,985,000	\$ 19,175,000	\$ 1,800,000	\$ 20,975,000

The Development Phase for this Project will be funded through a series of appropriations to better align project cash flow with the City's debt capacity. The proposed ordinance will appropriate \$3 million, which when combined with the balance from the appropriation for the Detail Design phase, will cover approximately six months of development work.

Once CSMART is developed, Court personnel will conduct extensive User Acceptance Testing over a twelve week period and spend an additional eight weeks training Court personnel on the new System. Estimated cost for these activities is \$1.8 million dollars. Also, Court personnel will have to perform extensive data cleansing work to prepare approximately three million cases for conversion to CSMART. The Municipal Courts Administration Department

Date: 8/12/2010	Subject: Ordinance Appropriating Funds and Authorizing a First Amendment to Houston Municipal Court Case Management System Contract	Originator's Initials FR	Page 3 of 3
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estimates that the cost could be as high as \$1 million, but further work is required to determine if other options are available that would provide a lower cost approach to the data cleansing effort.

M/WBE and Pay or Play Requirements

The portion of the project to be performed by Sogeti has a 15% M/WBE goal. Sogeti has identified PTG and Jefferson and Associates to provide training development services to fulfill the goal.

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.

REQUEST FOR COUNCIL ACTION

RCA# 8803

TO: Mayor via City Secretary

Subject: Approve an Ordinance Awarding a Contract for Towing and Storage Services for Seized Vehicles for the Houston Police Department
S37-L23668

Category #	Page 1 of 2	Agenda Item
4	36	39 25

FROM (Department or other point of origin):
Calvin D. Wells
City Purchasing Agent
Administration & Regulatory Affairs Department

Origination Date
August 11, 2010

Agenda Date
~~SEP 15 2010~~
~~SEP 01 2010~~
SEP 22 2010

DIRECTOR'S SIGNATURE
Calvin D. Wells

Council District(s) affected
All

For additional information contact:
Joseph Fenninger *JFK 8/12/10* Phone: (713) 308-1708
Douglas Moore Phone: (832) 393-8724

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an ordinance awarding a contract to RBEX, Inc. d/b/a Apple Towing Co. on its sole bid in an amount not to exceed \$1,375,000.00 for towing and storage services for seized vehicles for the Houston Police Department.

Maximum Contract Amount: \$1,375,000.00

Finance Budget

\$1,375,000.00 - Asset Forfeiture Fund - State (2204)

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve an ordinance awarding a three-year contract, with two one-year options to RBEX, Inc. d/b/a Apple Towing Co. on its sole bid in an amount not to exceed \$1,375,000.00 for towing and storage services for seized vehicles for the Narcotics Division of the Houston Police Department (HPD). 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. Fourteen prospective bidders downloaded the solicitation document from SPD's e-bidding website and one bid was received as outlined below. Subsequent to receipt of the bid, vendors were contacted to determine the reason for the limited response to the ITB; potential respondents advised that this service was not in their core business plans or they did not have the necessary resources to meet the scope of work requirements specified in the ITB.

<u>COMPANY</u>	<u>TOTAL AMOUNT</u>
1. RBEX, Inc. d/b/a Apple Towing Co.	\$1,375,000.00

This contract will be used to tow vehicles seized by the HPD Narcotics Division within the City of Houston and transport vehicles to a storage lot that is operated and maintained by the Contractor. These vehicles contain evidence, or are evidence, in crimes. Accordingly, they must be sequestered and secured by a single qualified contractor. The Contractor is required to have, and must keep current, a vehicle storage facility license that is issued by the Texas Department of Transportation's Motor Carrier Division and have authorization from HPD, as applicable. The vehicles will be stored inside or outside based upon the estimated value of the vehicles.

M/WBE Subcontracting

This Invitation to Bid was issued as a goal-oriented contract with a 3% M/WBE participation level. RBEX, Inc. d/b/a Apple Towing Co. has designated the below-named company as its certified M/WBE subcontractor.

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

JFK 8/12/10

ADJ

Date: 8/11/2010	Subject: Approve an Ordinance Awarding a Contract for Towing and Storage Services for Seized Vehicles for the Houston Police Department S37-L23668	Originator's Initials RD	Page 2 of 2
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<u>Name</u>	<u>Type of Work</u>	<u>Dollar Amount</u>	<u>Percent</u>
Oil Products Distribution, Ltd.	Distributor for Branded & Unbranded Gasoline & Diesel Fuels	\$41,250.00	3%

This contract will be monitored by the Affirmative Action Division.

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 provides health benefits to eligible employees in compliance with City policy.

Estimated Spending Authority

Department	FY11	Out Years	Total
HPD (Narcotics)	\$275,000.00	\$1,100,000.00	\$1,375,000.00

Buyer: Joyce Hays