

AGENDA - COUNCIL MEETING - TUESDAY - JULY 29, 2014 - 1:30 P. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS

INVOCATION AND PLEDGE OF ALLEGIANCE - Council Member Robinson

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

NOTE: If a translator is required, please advise when reserving time to speak

5:00 P. M. - RECESS

RECONVENE

WEDNESDAY - JULY 30, 2014 - 9:00 A. M.

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

HEARING - 9:00 A.M.

1. **PUBLIC HEARING** to consider a Resolution of No Objection for the 4% tax credit application of **NHH AT REED, LTD.** for New Hope Housing at Reed Road, an affordable housing community to be located at 2620 Reed Road - **DISTRICT D - BOYKINS**

REPORT FROM CITY CONTROLLER AND THE CITY ADMINISTRATION REGARDING THE CURRENT FINANCIAL STATUS OF THE CITY including but not limited to, a revenue, expenditure and encumbrance report for the General Fund, all special revenue funds and all enterprise funds, and a report on the status of bond funds and a Quarterly Investment Report by the City Controller

MAYOR'S REPORT - Gus Wortham Golf Course Rehabilitation/Botanic Garden Update

AGENDA - JULY 30, 2014 - PAGE 2

CONSENT AGENDA NUMBERS 2 through 23

MISCELLANEOUS - NUMBERS 2 and 3

2. REQUEST from Mayor for confirmation of the appointment or reappointment of the following individuals to the **HOUSTON ARTS ALLIANCE BOARD OF DIRECTORS**, for terms to expire June 30, 2017:
Position Three - **GIGI L. MYUNG**, reappointment
Position Four - **BRAD BUCHER**, appointment
3. REQUEST from Mayor for confirmation of the appointment of **WILLIAM (BILL) CURTIN REED** to Position Four of the **BOARD OF DIRECTORS OF HARRIS COUNTY IMPROVEMENT DISTRICT NO. 12**, for an unexpired term ending June 1, 2015

ACCEPT WORK - NUMBERS 4 through 8

4. RECOMMENDATION from Director General Services Department for approval of final contract amount of \$1,033,979.00 and acceptance of work on contract with **THE GONZALEZ GROUP, LP** for Neighborhood Solid Waste Depository - 7.27% over the original contract amount and under the 10% contingency - **DISTRICT D - BOYKINS**
5. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$8,118,319.23 and acceptance of work on contract with **SER CONSTRUCTION PARTNERS, LLC** for Yale Paving and Drainage from West Tidwell Road to West Parker Road - 4.45% under the original contract amount - **DISTRICT H - GONZALEZ**
6. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$441,737.45 and acceptance of work on contract with **CONGO LLC**, for Neighborhood Back Lot Wastewater Substitute Service Program - Norhill Heights - 0.72% under the original contract amount - **DISTRICTS C - COHEN; H - GONZALEZ and I - GALLEGOS**
7. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$2,819,986.70 and acceptance of work on contract with **D. L. ELLIOTT ENTERPRISES, INC** for Water Line Replacement in Forest West II Area - 1.54% over the original contract amount - **DISTRICTS A - STARDIG and C - COHEN**
8. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$3,575,916.46 and acceptance of work on contract with **SER CONSTRUCTION PARTNERS, LLC** for 42-inch Discharge Water Line from Katy Addicks Repump Station to Church Lane - 5.02% under the original contract amount - **DISTRICTS A - STARDIG and K - GREEN**

PURCHASING AND TABULATION OF BIDS - NUMBERS 9 and 10

9. **AMEND MOTION #2007-259, 3/7/07, as previously amended, TO EXTEND** the term from April 17, 2015 to April 16, 2018, for Chemical, Inorganic Metal Salt Coagulants for the Department of Public Works & Engineering, awarded to **BRENNTAG SOUTHWEST, INC (Formerly ALTIVIA CORPORATION)**
10. **GLOBE ELECTRIC SUPPLY CO., INC** for Purchase of Streaming Current Analyzers for the Department of Public Works & Engineering - \$101,820.00 - Enterprise Fund

RESOLUTIONS AND ORDINANCES - NUMBERS 11 through 23

11. RESOLUTION approving the creation of the Stadium Park Redevelopment Authority; approving the Certificate of Formation and the bylaws thereof; confirming the appointment of the initial directors and chairperson - **DISTRICT K - GREEN**
12. ORDINANCE approving and authorizing Lease Agreement between the City of Houston and **EXPEDITE!, INC** for certain premises at George Bush Intercontinental Airport/Houston **DISTRICT B - DAVIS**
13. ORDINANCE appropriating \$3,418,433.22 out of Houston HAS Airport Improvement Fund and awarding construction contract to **ISI CONTRACTING, INC** for Reconstruction of the Concrete Pavement and Improvement of the Drainage and Entry Roadway along Challenger 7 Parkway for Ellington Airport/Houston (Project No. 628/633); setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering testing services and contingencies relating to construction of facilities financed by such funds **DISTRICT E - MARTIN**
14. ORDINANCE approving and authorizing agreement between the City of Houston, Texas and the **HOUSTON HOUSING AUTHORITY** to establish a procedure for exchanging and transferring properties between them; designating initial parcels to be exchanged
15. ORDINANCE approving and authorizing Purchase and Sale Agreement between the City of Houston, Texas, and **COASTAL WATER AUTHORITY**, Seller, and **ALLIANCE REALTY PARTNERS, LLC**, Purchaser, to sell CWA Gillette Street, a subdivision in Harris County, Texas - **DISTRICT C - COHEN**
16. ORDINANCE amending Ordinance No. 2010-0140 (Passed by City Council February 17, 2010), as amended, to increase the maximum contract amount; approving and authorizing first amendment between the City of Houston and **SPAY NEUTER ASSISTANCE PROGRAM, INC (SNAP)** to add Spay/Neuter Services at SNAP'S Non-Mobile Facility - \$100,000.00 - BARC Special Revenue Fund
17. ORDINANCE amending Ordinance Number 2013-0809, as amended, to increase the maximum contract amount for an agreement for Legal Services between the City and **SUSMAN GODFREY L.L.P.**, as amended, for representation of the City in pending litigation against Xerox State and Local Solutions, Inc a/k/a and f/n/a ACS State and Local Solutions, Inc in the United States District Court for the Southern District of Texas Case No. 4:13-Cv-026532 - \$500,000.00 General Fund
18. ORDINANCE approving and authorizing settlement, release, and indemnity agreement between the City of Houston, et al. and **LISA BEAN-KEMP, ET AL.** (USDC Civil Action; 4:10-CV-03111) to settle a lawsuit - \$5,000,000.00 - Property and Casualty Fund
19. ORDINANCE amending Ordinance No. 2014-544, an ordinance extending the provisions of **SECTION 28-303 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, to all improved single-family residential properties within the **BRAYS FOREST SUBDIVISION, SECTIONS 4 R/P, 5 R/P, AND 6** to prohibit the parking of vehicles in the front or side yards of such residences - **DISTRICT F - NGUYEN**
20. ORDINANCE approving payment of \$34,550.00 to **TOTAL CONTRACTING LTD.** under contract with the City for Neighborhood Street Reconstruction authorized by Ordinance No. 2004-3010 **DISTRICTS H - GONZALEZ and I - GALLEGOS**

RESOLUTIONS AND ORDINANCES - continued

21. ORDINANCE approving and authorizing first amendment to the agreement for Research Services between the City of Houston and **WILLIAM MARSH RICE UNIVERSITY** for White Oak Bayou Cottage Grove Subdivision Low Impact Development Demonstration Project (Approved by Ordinance 2012-0249)
22. ORDINANCE approving and authorizing fourth amendment to the agreement between the City of Houston and **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY** for Reimbursement for Design and Construction of a Pilot Project to develop Local Data for Storm Water Quality Best Management Practices (Approved by Ordinance No. 2010-0353) - **DISTRICT C - COHEN**
23. ORDINANCE No. 2014-720, passed second reading July 23, 2014
ORDINANCE granting to **PEDRO CORDOVA dba PEDRO CORDOVA CO., 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

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

NON CONSENT AGENDA - NUMBER 24

MISCELLANEOUS

24. REVIEW on the record and make determination relative to the appeal to the City of Houston from a vote by the Houston Planning Commission to uphold the decision of the Houston Archaeological and Historical Commission's denial of a certificate of appropriateness to relocate a structure at 1815 Cortlandt Street (Historic District: Houston Heights East), filed by Timothy Kirwin, Attorney at Law, on behalf of Jeremy McFarland, Brick Moon Design (Applicant) for Laura Menafee (Owner)
DISTRICT I - GALLEGOS

MATTERS HELD - NUMBERS 25 through 27

25. Consideration of proposed amendments to Item 25A below, submitted in writing on July 11, 2014 by Council Members Boykins, Laster and Kubosh, as set forth in the attached Exhibits 1-3
DELAYED BY MOTION #2014-547, 6/11/14
- a. **ORDINANCE AMENDING CHAPTERS 1 AND 46 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to regulation of vehicles for hire; creating a regulatory framework for the operation of mobile dispatch services and transportation network companies; declaring certain conduct to be unlawful and providing penalties therefor; containing findings and other provisions relating to the foregoing subject; providing for severability; containing a repealer
DELAYED BY MOTION #2014-547, 6/11/14
This was Item 59 on Agenda of June 11, 2014
26. **ORDINANCE** appropriating \$10,000,000.00 out of the Miscellaneous Capital Projects / Acquisitions CP Series E Fund for the Grade Separated Betterment of the Light Rail Crossing of the tracks at Harrisburg and Hughes; authorizing and approving supplement to the Consent Agreement between the City of Houston and **THE METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY** (Approved by Ordinance No. 2008-0567) - **DISTRICTS H - GONZALEZ and I - GALLEGOS** - **DELAYED BY MOTION #2014-629, 6/25/14**
This was Item 36 on Agenda of June 25, 2014
27. **ORDINANCE** approving and authorizing Lease Agreement between the City of Houston and **BLACK FOREST VENTURES AVIATION RE, LLC, operated by WING AVIATION CHARTER MANAGEMENT SERVICES LLC**, for certain premises at 8410 Larson Street at William P. Hobby Airport - **DISTRICT I - GALLEGOS** - **TAGGED BY COUNCIL MEMBER BOYKINS**
This was Item 9 on Agenda of July 23, 2014

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Laster 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
JULY 29, 2014 - 2:00 PM*

AGENDA

3MIN

3MIN

3MIN

NON-AGENDA

1MIN

1MIN

1MIN

DR. ALKEBU MOTAPA - 5022 Cosby - 77021 - 713-741-5150 – Love Foundation Rev. King. - Rep. Sheila Jackson-Lee works heal

3MIN

3MIN

3MIN

MS. MICHELLE COLVARD – 713-826-8438 – Vehicle for Hire – Chapter 46

MS. LAUREN BARRASH – 713-863-9283 – Chapter 46

MS. MARY HARRIS – 707 E. 38th – 77022 – 832-423-0889 – UBER

MR. DUANE KAMINS – 5825 Kelley St. – 77026 – 281-685-7166 – Amendment to Chapter 46

MR. RICKY KAMINS – 5825 Kelley St. – 77026 – 713-880-9002 – Chapter 46

MR. ALAN – 5825 Kelley St. – 77026 – 281-513-3925 – Amendment to Chapter 46

MR. DAVID ANDERSON – 6024 Grace Ln. – 77021 – 713-492-3530 – Dangerous dogs

MS. STACEY ALEXANDER – 4726 Justin St. – 77093 – 281-219-7073 - Denied workers compensation for over ten years

MS. KINDRA TROTTER – 6603 Hirsh Rd., No. 461 – 77026 – 832-507-4122 – I need help finding a job

MR. ROBERT REYNA – 1553 Zabolia, No. 264 – Webster - TX – 77598 – 832-580-6733 – Veterans Affairs matter

MR. MICHAEL ZOOROB –

MS. BRIDGET ALEXANDER MCDANIEL – Unconstitutional – Metro Rail and FBI

PREVIOUS

1MIN

1MIN

1MIN

MS. BERTHA HYMON – 4931 Ventura Ln. – 77021 – 713-747-0617 – Area surveillance and FBI

PRESIDENT JOSEPH CHARLES - Post Office Box 524373 - 77052-4373 – C/Government – HPD – Under Arrest by Tempt. Chief Sheriff J Charles – H/County – TX

1
JUL 30 2014

MOTION NO. 2014 0716

MOTION by Council Member Christie that the recommendation of the Director of the Housing and Community Development Department, to set a hearing date to consider a Resolution of No Objection for the 4% tax credit application of NHH at Reed, Ltd. for New Hope Housing at Reed Road, an affordable housing community to be located at 2620 Reed Road, be adopted, and a Public Hearing be set for 9:00 a.m., Wednesday, July 30, 2014, in the City Council Chamber, Second Floor, City Hall.

Seconded by Council Member Boykins and carried.

Mayor Parker, Council Members Stardig, Cohen, Boykins,
Martin, Nguyen, Pennington, Gonzalez, Gallegos, Robinson,
Kubosh and Christie voting aye
Green voting no

Council Member Davis out of the City on City business

Council Members Laster, Costello and Bradford out of the City on personal business

PASSED AND ADOPTED this 23rd day of July, 2014.

Pursuant to Article VI, Section 6 of the City Charter, the
effective date of the foregoing motion is July 29, 2014.

City Secretary

1

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

14 - Motion - Reed

SUBJECT: A motion establishing a date for a Public Hearing to provide a Resolution of No Objection for the 4% tax credit application of NHH at Reed, Ltd.	Category #	Page 1 of 1	Agenda Item # 22
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FROM: Neal Rackleff, Director Housing and Community Development	Origination Date 4/5/2014	Agenda Date JUL 23 2014
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DIRECTOR'S SIGNATURE: 	Council District affected: District D
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For additional information contact: Stephen Tinnermon Phone: 713-868-8448	Date and Identification of prior authorizing Council action: N/A
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RECOMMENDATION: Approval of a motion establishing a date for a Public Hearing to provide a Resolution of No Objection for the 4% tax credit application of NHH at Reed, Ltd.

Amount of Funding: None	Finance Budget:
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SOURCE OF FUNDING General Fund Grant Fund Enterprise Fund

No funding required

SPECIFIC EXPLANATION: *9 am 7/30/14*

The Texas Department of Housing and Community Affairs (TDHCA) administers the state's housing tax credit program, which provides federal tax credits to spur the development of quality, affordable housing.

Per Texas Government Code Section 2306-67071 and the TDHCA's 2014 Qualified Allocation Plan, the local governing body of the jurisdiction where a project is to be located must "hold a hearing at which public comment may be made" before a developer can submit an application for non-competitive 4% tax credits.

NHH at Reed, Ltd. intends to submit an application to the TDHCA requesting an award of 4% tax credits for New Hope Housing at Reed Road, an affordable housing community to be located at 2620 Reed Road.

HCDD requests a motion to hold the public hearing on July 30, 2014.

This item was reviewed by the Housing and Community Affairs Committee on July 15, 2014.

NR:EP:SS

Cc: CSC, FIN, MYR, LGL

REQUIRED AUTHORIZATION

Finance Department:	Other Authorization:	Other Authorization:
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ANNISE D. PARKER
MAYOR

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

2

JUL 30 2014

COPY TO EACH MEMBER OF COUNCIL:

CITY SECRETARY: 7-16-14
date

COUNCIL MEMBER: _____

July 14, 2014

The Honorable City Council
Houston, Texas

Dear Council Members:

I am pleased to nominate for appointment or reappointment the following individuals to the Houston Arts Alliance Board of Directors, subject to Council confirmation:

Gigi L. Myung, reappointment to Position Three, for a term to expire June 30, 2017; and
Brad Bucher, appointment to Position Four, for a term to expire June 30, 2017.

The résumés of the appointees are attached for your review.

Sincerely,

Annise D. Parker
Mayor

AP:JC:jsk

Attachments

cc: Mr. Jonathon Glus, President and Chief Executive Officer, Houston Arts Alliance
Ms. Minnette Boesel, Mayor's Assistant for Cultural Affairs, Mayor's Office



2



ANNISE D. PARKER
MAYOR

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

3

JUL 30 2014

COPY TO EACH MEMBER OF COUNCIL:

CITY SECRETARY: 7-10-14
date

COUNCIL MEMBER: _____

July 3, 2014

The Honorable City Council
Houston, Texas

Dear Council Members:

Pursuant to Chapter 3880 of the Texas Special District Local Laws Code and upon the recommendation of the Board of Directors of Harris County Improvement District No. 12, I nominate the following individual for appointment to the Board of Directors of Harris County Improvement District No. 12, subject to Council confirmation:

William (Bill) Curtis^N Reed, appointment to Position Four, for an unexpired term ending June 1, 2015.

The résumé of the nominee is attached for your review.

Sincerely,

Annise D. Parker
Mayor

AP:JC:jsk

Attachments

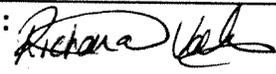
cc: Mr. Stephen M. Robinson, Attorney for the District, Harris County Improvement District No. 12



3

SUBJECT: Accept Work The Gonzalez Group, LP Neighborhood Solid Waste Depository WBS No. L-000076-0001-4	Page 1 of 2	Agenda Item 4
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FROM (Department or other point of origin): General Services Department	Origination Date 7/24/14	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE:  Scott Minnix	Council District affected: D
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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. 2013-0654, Dated July 17, 2013
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RECOMMENDATION: The General Services Department recommends approval of final contract amount of \$1,033,979.00 and acceptance of work on contract with The Gonzalez Group, LP. for Neighborhood Solid Waste Depository – 7.27% over the original contract amount and under the approved 10% contingency.

Amount and Source of Funding: No Additional Funding Required Previous Funding: \$ 1,085,000.00 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 \$1,033,979.00 or 7.27% over the original contract amount, accept the work and authorize final payment to The Gonzalez Group, LP. for construction services in connection with the Neighborhood Solid Waste Depository for the Solid Waste Management Department.

PROJECT LOCATION: 5100 Sunbeam St. (573D)

PROJECT DESCRIPTION: The project demolished all existing structures and paving on site; constructed new reinforced concrete drives, storage area pavements, retaining walls, a small wood-framed office building, a wood-framed control post building, stationary compactor with heavy-duty receiver containers, a 385-gallon double-walled used oil storage tank; site grading; drainage, storm water detention; building utilities; site lighting; pavement markings; and site fencing.

Jacobs Engineering Group, Inc. was the project design consultant and the General Services Department was the construction manager for the project.

REQUIRED AUTHORIZATION CUIC #25CONS254	
General Services Department:  Richard A. Vella Chief of Design & Construction Division	Solid Waste Management Department:  Harry J. Hayes Director

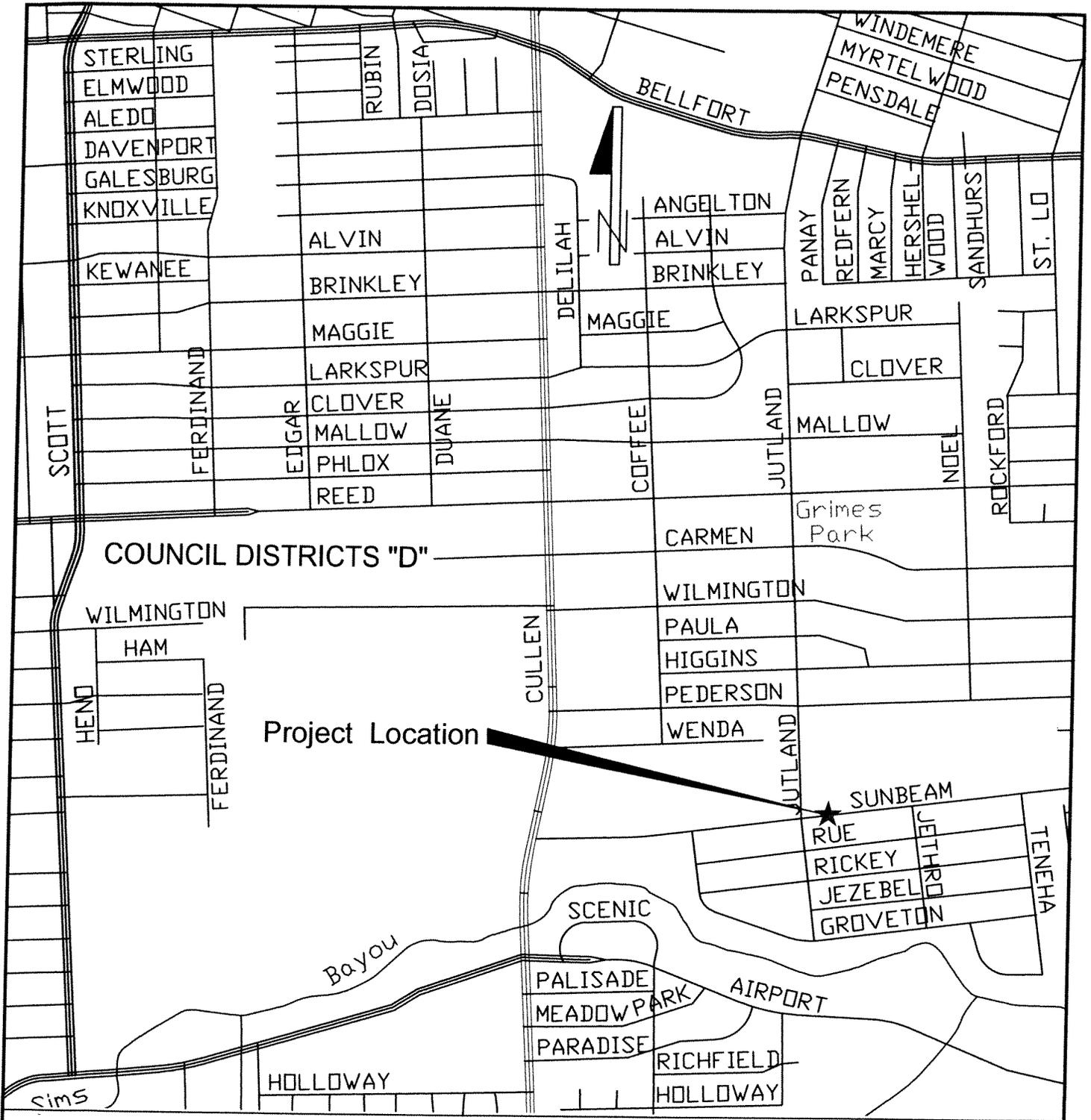
Date	Subject: Accept Work The Gonzalez Group, LP Neighborhood Solid Waste Depository WBS No. L-000076-0001-4	Originator's Initials ABC	Page 2 of 2
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CONTRACT COMPLETION AND COST: The contractor completed the project within the original contract duration of 300 days. The final cost of the project including Change Orders is \$1,033,979.00, an increase of \$70,033.00 over the original contract amount

PREVIOUS CHANGE ORDERS: Change Orders 1 and 2 provided 8% lime stabilization of subgrade of the gravel in driveway; provided a reconfiguration of parking lot layout to meet Texas Department of Transportation recommendations for large equipment turning radius for the site; replaced gravel portion of gravel driveway with reinforced concrete paving; provided and installed four additional security cameras; provided conduit and pull string from southwest and southeast light pole; provided electrical power to the irrigation controller; added and installed ten speed bumps; added and installed 20 loading dock stops; removed and replaced wiring raceway on compactor; provided and installed an air-cooled security cabinet for the camera equipment; provided and installed security grills on seven office windows and guard post; provided and installed two lockable bars to secure doors and an outside cage for the HVAC window unit in the office; added and installed a concrete slab and protective cages for two back-flow preventers; provided and installed a pipe screen at the detention pond; provided and installed an exterior fire extinguisher cabinet and added non-compensable days to the contract.

SM:RAV:JLN:CRC:ABC:abc

c: Marta Crinejo, Jacquelyn L. Nisby, Calvin Curtis, Gary Readore, Charlie Lee, Carlecia D. Wright, Morris Scott, Christopher Gonzales, Felicia Williams, File 1108



Neighborhood Solid Waste Depository
 5100 Sunbeam St.
 Houston, TX 77033

SUBJECT: Accept Work for Yale Paving and Drainage from West Tidwell Road to West Parker Road; WBS No. N-000592-0001-4, R-000500-0117-4 and S-000500-0117-4.	Category #1, 7	Page 1 of 2	Agenda Item # 5
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FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7/24/14	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E., Director	Council District affected: H JM
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For additional information contact:  Joseph T. Myers, P.E. Senior Assistant Director Phone: (832) 395-2355	Date and identification of prior authorizing Council action: Ord. # 2012-0545 dated: 06/13/2012
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RECOMMENDATION: (Summary) Pass a motion to approve the final Contract Amount of \$8,118,319.23 or 4.45% under the original Contract Amount, accept the Work and authorize final payment.

Amount and Source of Funding: No additional funding required.
Total (original) appropriation of \$9,820,700.00 with \$6,580,000.00 from the Federal State Local-PWE Pass Through DDSRF Fund No. 5430, \$2,196,800.00 from Metro Projects Construction DDSRF Fund No. 4040, \$1,022,857.00 from Water and Sewer System Consolidated Construction Fund No. 8500 and \$21,043.00 from Street and Traffic Control and Storm Drainage DDSRF Fund No. 4042.

PROJECT NOTICE/JUSTIFICATION: This project was part of the Street and Traffic Capital Improvement Plan (CIP) and was necessary to meet City of Houston standards as well as improve traffic circulation, mobility, and drainage in the service area. Deterioration of existing pavement and future traffic volume required that the roadway be constructed.

DESCRIPTION/SCOPE: The project consisted of the construction of two 24-foot lanes and approximately 5,150 linear feet of reconstructed roadway with improved drainage storm sewers and two detention ponds, curb and gutters, raised medians, sidewalks, wheelchair ramps, street lighting and necessary underground utilities. AECOM USA Group, Inc. designed the project with 467 calendar days allowed for construction. The project was awarded to SER Construction Partners, LLC with an original Contract Amount of \$8,496,132.80.

LOCATION: The project area is generally bound by West Parker Road on the north, West Tidwell Road on the south, Highway 45 North on the east, and Stuebner Airline Road on the west. The project is located in Key Map Grids 452D and 412Z.

CONTRACT COMPLETION AND COST: The Contractor, SER Construction Partners, LLC, has completed the work under the subject Contract. The project was completed on time with additional 67 days approved by Change Order No. 1. The final cost of the project, including overrun and underrun of estimated bid quantities and previously approved Change Orders No. 2 through 6 is \$8,118,319.23, a decrease of \$377,813.57 or 4.45% under the original Contract Amount.

The decreased cost is a result of the difference between planned and measured quantities. This decrease is primarily the result of an underrun in General items, Paving Items, and Extra Unit Price Items, which were not necessary to complete the work.

REQUIRED AUTHORIZATION

20HA320 NDT

Finance Department:	Other Authorization:	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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Date	SUBJECT: Accept Work for Yale Paving and Drainage from West Tidwell Road to West Parker Road; WBS No. N-000592-0001-4, R-000500-0117-4 and S-000500-0117-4.	Originator's Initials	Page 2 of 2
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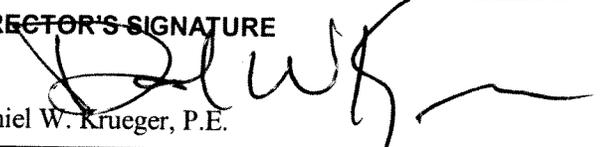
M/WBE PARTICIPATION: The M/WBE goal established for this project was 17%. According to Office of Business Opportunity, the participation was 22.61%. Contractor's M/WBE performance evaluation was rated Outstanding.


DWK:DRM:JTA:RJM:JM:ha

H:\E&C Construction\North Sector\PROJECT FOLDER\N-000592-0001-4 Yale Street Paving and Drainage Improvements\Close out\RCA\RCA - Closeout.doc

SUBJECT: Accept Work for Neighborhood Back Lot Wastewater Substitute Service Program – Norhill Heights WBS# R-002011-0080-4	Page 1 of 1	Agenda Item # 6
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FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7/24/14	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE  Daniel W. Krueger, P.E.	Council District affected: C, H and I
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For additional information contact:  Jason Iken, P.E. Senior Assistant Director Phone: (832) 395-4989	Date and identification of prior authorizing Council action: Ordinance No. 2012-550, dated 06/13/2012
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RECOMMENDATION: (Summary)
Pass a motion to approve the final contract amount of \$441,737.45, which is 0.72% under the original contract amount, accept the work, and authorize final payment.

Amount and Source of Funding: No additional funding required. <i>M.P. 7/14/2014</i> Original appropriation of \$503,400.00 for construction and contingencies from Water and Sewer System Consolidated Construction Fund No. 8500.	
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SPECIFIC EXPLANATION:

PROJECT NOTICE/JUSTIFICATION: This project was part of the Neighborhood Back Lot Wastewater Substitute Service Program and was required to provide the relocation of sanitary sewer service lines from back lots to front lots.

DESCRIPTION/SCOPE: This project consisted of the relocation of sanitary sewer service lines for 65 properties in Norhill Heights, Eastwood and First Montrose Commons subdivisions. The project was awarded to Congo LLC with an original contract amount of \$444,951.00. The Notice to Proceed date was 09/05/2012 and the project had 210 calendar days for completion.

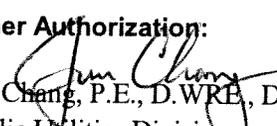
LOCATION: The project was located at various locations within Council Districts C, H & I.

CONTRACT COMPLETION AND COST: The contractor, Congo LLC, has completed the work under the contract. The contract was completed within the contract time. The final cost of the project is \$441,737.45, a decrease of \$3,213.55 or 0.72% under the original contract amount. Fewer service relocations were needed than anticipated.

The final amount of this work order contract was not affected by Change Order No. 1.

MWDBE PARTICIPATION: No City M/WBE participation goal was established for this project as the contract amount did not exceed the threshold of \$1,000,000.00 required for a goal oriented contract per Section 15-82 of the Code of Ordinances.

DWK:JC:JI:DR:MB:LT:al
Attachments

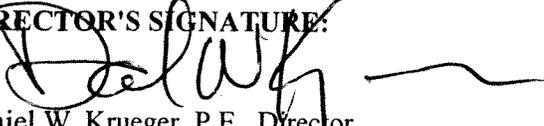
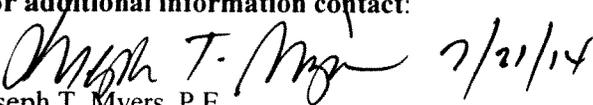
Project File WW 4868-05		REQUIRED AUTHORIZATION		CUIC ID# 20JAI518
Finance Department	Other Authorization:	Other Authorization:  Jun Chang, P.E., D.WRE, Deputy Director Public Utilities Division		

COUNCIL DISTRICT LIST - WW 4868-05

W/O No	Address	Key/Map	Council District (2014)	Council District 2012
29	1719 MICHIGAN	492R	D	C
38	702 RICHMOND	493W	D	C
39	706 RICHMOND	493W	D	C
40	710 RICHMOND	493W	D	C
41	718 RICHMOND	493W	D	C
42	800 SUL ROSS	493S	D	C
43	808 SUL ROSS	493S	D	C
1	713 W COTTAGE	453X	H	H
2	720 W COTTAGE	453X	H	H
3	820 FUGATE	453X	H	H
4	836 FUGATE	453X	H	H
5	701 KEY ST	453X	H	H
6	901 KEY ST	453X	H	H
7	907 KEY ST	453X	H	H
8	911 KEY ST	453X	H	H
9	915 KEY ST	453X	H	H
10	919 KEY ST	453X	H	H
11	927 KEY ST	453X	H	H
12	931 KEY ST	453X	H	H
13	941 KEY ST	453X	H	H
19	606 MERRILL	493B	H	H
20	610 MERRILL	493B	H	H
21	613 MERRILL	493B	H	H
22	629 MERRILL	493B	H	H
23	632 MERRILL	493B	H	H
24	705 MERRILL ST	493B	H	H
25	801 MERRILL ST	493B	H	H
26	809 MERRILL ST	493B	H	H

WAO No.	Address	Key Map	Council District (2014)	Council District 2012
27	815 MERRILL ST	493B	H	H
28	825 MERRILL ST	493B	H	H
33	715 PIZER	453X	H	H
34	827 PIZER	453X	H	H
35	702 REDAN	493B	H	H
36	710 REDAN	493B	H	H
37	722 REDAN ST	493B	H	H
44	720 W TEMPLE	453X	H	H
14	4702 MCKINNEY	494T	I	I
15	4708 MCKINNEY	494T	I	I
16	4711 MCKINNEY	494T	I	I
17	4715 MCKINNEY	494T	I	I
18	4723 MCKINNEY	494T	I	I
45	4002 WALKER	494S	I	I
46	4004 WALKER	494S	I	I
47	4006 WALKER	494S	I	I
48	4008 WALKER	494S	I	I
49	4012 WALKER	494S	I	I
50	4601 WALKER	494T	I	I
51	4607 WALKER	494T	I	I
52	4611 WALKER	494T	I	I
53	4617 WALKER	494T	I	I
54	4631 WALKER	494T	I	I
55	4703 WALKER	494T	I	I
56	4704 WALKER	494T	I	I
57	4709 WALKER	494T	I	I
58	4719 WALKER	494T	I	I
59	4721 WALKER	494T	I	I
60	4725 WALKER	494T	I	I
61	4727 WALKER	494T	I	I
62	4801 WALKER	494T	I	I

W/O No.	Address	Key/Map	Council District (2014)	Council District 2012
63	4807 WALKER	494T		
64	4809 WALKER	494T		
65	4817 WALKER	494T		

SUBJECT: Accept Work for Water Line Replacement in Forest West II Area; WBS No. S-000035-0121-4.	Page 1 of 2	Agenda Item # 7
FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7/14/24	Agenda Date JUL 30 2014
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E., Director	Council District affected: A, C 	
For additional information contact:  Joseph T. Myers, P.E. Senior Assistant Director Phone: (832) 395-2355	Date and identification of prior authorizing Council action: 1 Ord. # 2012-0501 dated: 05/30/2012	

RECOMMENDATION: (Summary) Pass a motion to approve the final Contract Amount of \$2,819,986.70 or 1.54% over the original Contract Amount, accept the Work and authorize final payment.

Amount and Source of Funding: No additional funding required:
Total (original) appropriation of \$3,250,000.00 from Water and Sewer System Consolidated Construction Fund No. 8500.

PROJECT NOTICE/JUSTIFICATION: This project was part of the City's Water Line Replacement Program and was required to replace and upgrade water lines within the City to increase availability of water, improve circulation and fire protection.

DESCRIPTION/SCOPE: The project consisted of approximately 33,487 linear feet of 4-inch, 6-inch and 8-inch water lines, valves and appurtenance in Area 1 and Area 2. Isani Consultants, L.P. designed the project with 260 calendar days allowed for construction. The project was awarded to D. L. Elliott Enterprises, Inc. with an original Contract Amount of \$2,777,257.00.

LOCATION: These project areas were located in the following key map grids:

<u>Project</u>	<u>Bounded By</u>	<u>Key Map Grids</u>	<u>Council District</u>
1. Area 1:	W. Tidwell Road on the north, Pinemont Drive on the south, Lost Forest Drive on the east and Bingle Road on the west.	451B & F	C
2. Area 2:	W. Tidwell Road on the north, Cole Creek on the south, White Oak Bayou on the east and Oak Haven Lane on the west.	451C & D	A

CONTRACT COMPLETION AND COST: The Contractor, D. L. Elliott Enterprises, Inc., has completed the work under the subject Contract. The project was completed beyond the established completion date with additional 62 days approved by Change Order No. 1. Liquidated damages in the amount of \$18,400.00 for 23 days at \$800.00/day were assessed and reflected in the final payment to the Contractor. The final cost of the project, including overrun and underrun of estimated unit price quantities is \$2,819,986.70, an increase of \$42,729.70 or 1.54% over the original Contract Amount.

The increased cost is a result of the difference between planned and measured quantities. This increase is primarily the result of an overrun in Street Item No. 49 – Concrete pavement (all thickness, including reinforcement, asphaltic surfacing, base & subgrade), which was necessary to complete the project.

REQUIRED AUTHORIZATION		20HA326
Finance Department:	Other Authorization:	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division

Date	SUBJECT: Accept Work for Water Line Replacement in Forest West II Area; WBS No. S-000035-0121-4.	Originator's Initials	Page 2 of 2
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MWBE/SBE PARTICIPATION: The MWBE/SBE goal established for this project was 20%. According to Office of Business Opportunity, the participation was 20.26%. Contractor's MWBE/SBE performance evaluation was rated Satisfactory.

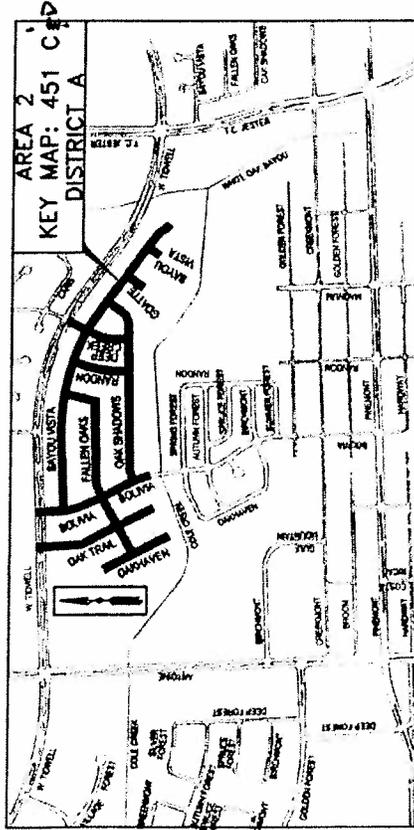
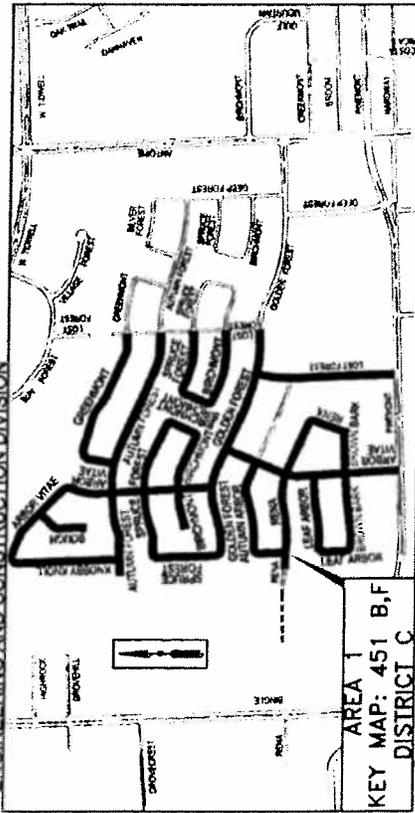


DWK:DRM:JTM:RJM:DO:ha

H:\E&C Construction\North Sector\PROJECT FOLDER\S-000035-0121-4 -WLR in Forest West Area II\21.0 Closeout\RCA\RCA - Closeout .doc

WATER LINE REPLACEMENT IN FOREST WEST II AREA
 WBS NO. S-000035-0121-4

DEPARTMENT OF PUBLIC WORKS AND ENGINEERING
 ENGINEERING AND CONSTRUCTION DIVISION



STREET NAME	FROM	TO	SIZE (INCH)	LENGTH (FEET)	COUNCIL DISTRICT
AREA 1					
ARBOR VITAE	AUTUMN FOREST	KNOBBY KNOLL	8	1,220	C
KNOBBY KNOLL	AUTUMN FOREST	ARBOR VITAE	8	934	C
BOUGH	ARBOR VITAE	LOOP	8	1,007	C
GREENMONT	LOST FOREST	AUTUMN FOREST	8	1,367	C
AUTUMN FOREST	LOST FOREST	END (WEST)	8	2,138	C
ARBOR VITAE	GOLDEN FOREST	AUTUMN FOREST	8	820	C
SPRUCE FOREST (E)	LOST FOREST	BIRCHMONT (E)	8	489	C
BIRCHMONT (E)	LOST FOREST	SPRUCE FOREST	8	663	C
SPRUCE FOREST (W)	BIRCHMONT (W)	GOLDEN FOREST	8	1,786	C
BIRCHMONT (W)	SPRUCE FOREST (W)	ARBOR VITAE	8	781	C
BIRCHMONT (W)	ARBOR VITAE	LOOP	8	1,060	C
GOLDEN FOREST	SPRUCE FOREST	LOST FOREST	8	2,071	C
ARBOR VITAE	GOLDEN FOREST	PHENOMT	8	1,530	C
LOST FOREST	GOLDEN FOREST	PHENOMT	8	1,279	C
AUTUMN ARBOR	ARBOR VITAE	RENA	8	1,107	C
LEAF ARBOR	ARBOR VITAE	BROWN BARK	8	927	C
BROWN BARK	RENA	LEAF ARBOR	8	1,076	C
RENA	BROWN BARK	END (WEST)	8	1,708	C
AREA 2					
BAYOU VISTA	BOLIVA	END (WEST)	8	2,624	A
FALLEN OAKS	BAYOU VISTA	OAK TRAIL	8	1,279	A
FALLEN OAKS	OAK TRAIL (LOOP)	OAK HAVEN (LOOP)	8	602	A
OAK SHADOWS	BAYOU VISTA	BOLIVA	8	1,627	A
RANDON	OAK SHADOWS	BAYOU VISTA	8	443	A
DEEP CREEK	OAK SHADOWS	W. TIDWELL	8	612	A
BOLIVA	W. TIDWELL	COLE CREEK	8	1,028	A
OAK TRAIL	W. TIDWELL	FALLEN OAKS	8	706	A
OAK TRAIL	FALLEN OAKS	LOOP	8	587	A
OAK HAVEN	LOOP (NORTH)	LOOP (SOUTH)	8	1,138	A
GOETTE CIR	BAYOU VISTA	END (SOUTH)	8	368	A
BAYOU VISTA CR	BAYOU VISTA	END (SOUTH)	8	351	A
				TOTAL	33,343

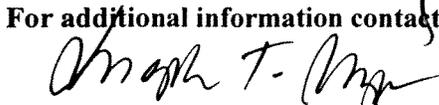


CITY OF HOUSTON
 DEPARTMENT OF PUBLIC WORKS AND ENGINEERING

WATER LINE REPLACEMENT
 IN FOREST WEST II AREA
 WBS NO. S-000035-0121-4

BID READY VICINITY MAP
 SCALE: NTS DATE: 02/20/12



SUBJECT: Accept Work for 42-inch Discharge Water Line from Katy Addicks Repump Station to Church Lane; WBS No. S-000900-0123-4.	Page 1 of 1	Agenda Item # 8
FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7/24/14	Agenda Date JUL 30 2014
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E., Director	Council District affected: <i>AK</i> A & K	
For additional information contact:  7/18/14 Joseph T. Myers, P.E. Sr. Assistant Director Phone: (832) 395-2355	Date and identification of prior authorizing Council action: Ord. # 2013-0510 dated: 05/29/2013	

RECOMMENDATION: (Summary) Pass a motion to approve the final Contract Amount of \$3,575,916.46 or 5.02% under the original Contract Amount, accept the work, and authorize final payment.

Amount and Source of Funding: No additional funding required.
Total (original) appropriation of \$4,445,300.00 from the Water and Sewer System Consolidated Construction Fund No. 8500.

PROJECT NOTICE/JUSTIFICATION: This project was part of the City's Surface Water Transmission Program and was required to increase circulation and availability of water from the Katy Addicks Repump Station.

DESCRIPTION/SCOPE: This project consisted of approximately 3,680 linear feet of 42-inch steel water line, valves and appurtenances, installation of 350 linear feet of 6 feet x 3 feet reinforced concrete box; 1520 linear feet of 7 feet x 3 feet reinforced concrete box storm sewer, inlets, manholes, and appurtenances; 277 linear feet of concrete lined low flow channel from Katy Addicks Repump Station to Church Lane; replacement of existing overflow weir boxes, overflow pipes and related improvements at Sims Bayou Pump Station. Lockwood, Andrews and Newnam, Inc. designed the project with 270 calendar days allowed for construction. The project was awarded to SER Construction Partners, LLC. with original Contract Amount of \$3,765,044.85.

LOCATION: The Project is generally along existing easement from Katy Addicks Repump Station to Church Lane and at Sims Bayou Pump Station. The project is located in Key Map Grids 449U, Y and 571K.

CONTRACT COMPLETION AND COST: The Contractor, SER Construction Partners, LLC., has completed the work under the subject Contract. The project was completed within the Contract Time. The final cost of the project, including overrun and underrun of estimated unit price quantities is \$3,575,916.46 a decrease of \$189,128.39 or 5.02% under the original Contract Amount.

The decreased cost is a result of difference between planned and measured quantities. This decrease is primarily the result of an underrun in various Base Unit Price Items, Water Items, Storm Item, Paving Items, Tank Improvement Items at Sims Bayou Pump Station Items, and Extra Unit Price Items, which were not necessary to complete the project.

M/W/SBE PARTICIPATION: The M/SBE goal established for this project was 18%. According to Mayor's Office of Business Opportunity, the participation was 26.72%. Contractor's M/SBE performance evaluation was rated Outstanding.

DWK:DRM:JTM:SKF:RW:ha
H:\E&C Construction\Facilities\Projects\S-000900-0123-4 42-inch Discharge WL from KARP\RCA\RCA - Closeout.doc

REQUIRED AUTHORIZATION

20HA322 NDT

Finance Department:	Other Authorization:	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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1508

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 10178

Subject: Amend Council Motion No. 2007-0259 for Chemical, Inorganic Metal Salt Coagulants for the Public Works & Engineering Department S12-S22149_A3

Category #
4

Page 1 of 1

Agenda Item

9

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Finance Department

Origination Date

July 07, 2014

Agenda Date

JUL 30 2014

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected

All

For additional information contact:

David Guemsey Phone: (832) 395-3640
Ray DuRousseau Phone: (832) 393-8726

Date and Identification of prior authorizing Council Action:

CM Nos. 2007-259, 03/07/07 and 2012-183, 03/24/12

RECOMMENDATION: (Summary)

Amend Council Motion No. 2007-0259 to extend the award term from April 17, 2015 to April 16, 2018 for chemical, inorganic metal salt coagulants for the Public Works & Engineering Department.

No Additional Spending Authority Required

Finance Budget

SPECIFIC EXPLANATION:

The Director of the Public Works & Engineering Department and the City Purchasing Agent recommend that City Council amend Council Motion No. 2007-0259 to extend the award term of Brenntag Southwest, Inc. (formerly ALTIVIA Corporation) from April 17, 2015 to April 16, 2018 for inorganic metal salt coagulant chemicals (aka aluminum sulfates) for the Public Works & Engineering Department with no additional spending authority required. The award consisted of approximately 324,500 wet tons of inorganic metal salt coagulant chemicals utilized on a daily basis by the Department's Drinking Water Operations Branch (DWOB) to treat potable drinking water as promulgated by Federal and State regulations to preserve and protect the health and safety of the citizens of Houston.

The award was initially approved by Council Motion No. 2007-0259 on March 7, 2007 for a 36-month period with two option years to extend for a total 60-month term, in an amount not to exceed \$27,583,500.00 and was subsequently amended by CM 2012-0183, passed March 21, 2012, to extend the awarded term to April 17, 2015 and CM 2012-0771, passed October 31, 2012, to increase the spending authority to \$38,588,900.00. Expenditures as of July 1, 2014 totaled \$27,683,364.00. In response to the Mayor's cost savings initiative and in consideration for the extension, Brenntag Southwest, Inc. has agreed to reduce the City's inorganic metal salt coagulant chemical cost by 1.6%, which is expected to yield approximately \$50,000.00 annually in chemical cost savings. All other terms and conditions shall remain as originally approved by City Council.

M/WBE:

This contract was awarded with a 3% M/WBE participation goal and the contractor is currently achieving 2.2%. The Department's Small Business Development Section and the City of Houston's Office of Business Opportunity will continue to monitor and work with the contractor to ensure maximum M/WBE participation.

Buyer: Martin L. King

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

9

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 10178

Subject: Amend Council Motion No. 2007-0259 for Chemical, Inorganic Metal Salt Coagulants for the Public Works & Engineering Department S12-S22149_A3

Category #
4

Page 1 of 1

Agenda Item

9

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Finance Department

Origination Date

July 07, 2014

Agenda Date

JUL 30 2014

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected
All

For additional information contact:

David Guemsey Phone: (832) 395-3640
Ray DuRousseau Phone: (832) 393-8726

Date and Identification of prior authorizing Council Action:

CM Nos. 2007-259, 03/07/07 and 2012-183, 03/24/12

RECOMMENDATION: (Summary)

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No Additional Spending Authority Required

Finance Budget

SPECIFIC EXPLANATION:

The Director of the Public Works & Engineering Department and the City Purchasing Agent recommend that City Council amend Council Motion No. 2007-0259 to extend the award term of Brenntag Southwest, Inc. (formerly ALTIVIA Corporation) from April 17, 2015 to April 16, 2018 for inorganic metal salt coagulant chemicals (aka aluminum sulfates) for the Public Works & Engineering Department with no additional spending authority required. The award consisted of approximately 324,500 wet tons of inorganic metal salt coagulant chemicals utilized on a daily basis by the Department's Drinking Water Operations Branch (DWOB) to treat potable drinking water as promulgated by Federal and State regulations to preserve and protect the health and safety of the citizens of Houston.

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M/WBE:

This contract was awarded with a 3% M/WBE participation goal and the contractor is currently achieving 2.2%. The Department's Small Business Development Section and the City of Houston's Office of Business Opportunity will continue to monitor and work with the contractor to ensure maximum M/WBE participation.

Buyer: Martin L. King

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 10083

Subject: Formal Bids Received for the Purchase of Streaming Current Analyzers for the Public Works and Engineering Department S50-N24943

Category #
4

Page 1 of 2

Agenda Item

10

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Finance Department

Origination Date

July 11, 2014

Agenda Date

JUL 30 2014

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected

E

For additional information contact:

David Guemsey Phone: (832) 395-3640
Ray DuRousseau Phone: (832) 393-8726

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an award to Globe Electric Supply Co., Inc. on its low bid in the amount of \$101,820.00 to furnish and deliver streaming current analyzers for the Public Works & Engineering Department.

Award Amount: \$101,820.00

Finance Budget

\$101,820.00 - Combined Utility System General Purpose Fund (8305)

SPECIFIC EXPLANATION:

The Director of the Public Works and Engineering Department and the City Purchasing Agent recommend that City Council approve an award to Globe Electric Supply Co., Inc. on its low bid in the amount of \$101,820.00 to furnish and deliver streaming current analyzers for the Public Works & Engineering Department and that authorization be given to issue a purchase order. The streaming current analyzers will be used to monitor and maintain proper electro kinetic charges (ionic & colloidal) in coagulated water. The objective is to keep this residual at a minimum, while maintaining desired water quality, and process efficiency at the East Water Purification Plant, located at 2300 Federal Road. The streaming current analyzers will also alert an operator of a feed system failure.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Ten prospective bidders downloaded the solicitation document from SPD's e-bidding website and three bids were received as detailed below:

<u>COMPANY</u>	<u>TOTAL AMOUNT</u>
1. Globe Electric Supply Co., Inc.	\$101,820.00
2. Hach Company	\$103,364.88
3. Caregivers International	\$174,000.00

This purchase consists of 12 streaming current analyzers and associated equipment. The new streaming current analyzers (units) will come with a full one-year warranty and the life expectancy is 10-15 years. Ten of the 12 units being purchased will replace 16-year-old units, which are inoperable, obsolete and repair parts are no longer available. The old units will be stripped of usable parts and used to repair similar units in the Department's inventory. The remaining two units will be additions to the Department's inventory.

Hire Houston First:

The proposed award requires compliance with the City's Hire Houston First Ordinance that promotes economic opportunity for Houston businesses and supports job creation. In this case, the proposed contractor meets the requirements of Hire Houston First.

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

Date: 7/11/2014	Subject: Formal Bids Received for the Purchase of Streaming Current Analyzers for the Public Works and Engineering Department S50-N24943	Originator's Initials AL	Page 2 of 2
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MWBE Subcontracting:

M/WBE Zero Percentage Goal document approved by the Public Works & Engineering Department Small Business Development Group and the Office of Business Opportunity has provided an approved signed waiver.

Buyer: Art Lopez

65-22



CITY OF HOUSTON

Department of Public Works and Engineering

RECEIVED

OCT 01 2013

Interoffice

Correspondence

OBO

To: Marsha Murray, Assistant Director Office of Business Opportunity

From: Administration Manager Public Works & Engineering Public Utilities Division

Date: September, 30 2013

Attn: Latanja Bolden

Subject: MWBE PARTICIPATION GOAL REQUEST/WAIVER/PURCHASE OF 12 MONITORING SYSTEMS

I am requesting a waiver of the MWBE Goal: Yes [X] No [] Type of Solicitation: Bid [X] Proposal []

Basis for Request? [Ref. Code Ch15,15-83(c)(1)]

I am requesting a new MWBE Goal: Yes [] No [X]

I am requesting a revision of the MWBE Goal: Yes [X] No []

If requesting a revision, how many solicitations were received: _____

Solicitation Number: N/A Estimated Dollar Amount: \$144,000

Anticipated Advertisement Date: _____ Solicitation Due Date: _____

Goal on Last Contract: _____ Was Goal Met? Yes [] No []

If goal was not met, what did the vendor achieve? _____

Name and Intent of this Solicitation: Purchase 12 each Monitoring Streaming Systems to be used at the EWPP. will be used to monitor and maintain proper electro kinetic charge (ionic & colloidal) in coagulated water. The objective is to keep this residual at a minimum while maintaining desired water quality and process efficiency. It can also alert an operator to a feed system failure.

Reason for Requesting a Waiver or Revision (Use additional paper if necessary): These units will be ordered and drop shipped directly from the manufacturer.

MWBE Participation Form

Contract: _____

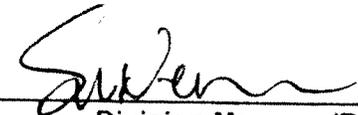
Date: _____

Page 2

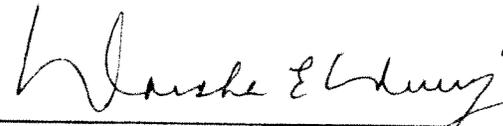
Concurrence:



PWE Initiator



Division Manager/PWE

 ^{10/31/13} 

Marsha Murray, Assistant Director
* Office of Business Opportunity

Purchase of 12 Monitoring Systems

*Signature is required if the request is for zero percent MWBE participation or to revise the MWBE goal.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 10083

Subject: Formal Bids Received for the Purchase of Streaming Current Analyzers for the Public Works and Engineering Department S50-N24943

Category #
4

Page 1 of 2

Agenda Item

10

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Finance Department

Origination Date

July 11, 2014

Agenda Date

JUL 30 2014

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected

E

For additional information contact:

David Guemsey Phone: (832) 395-3640
Ray DuRousseau Phone: (832) 393-8726

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an award to Globe Electric Supply Co., Inc. on its low bid in the amount of \$101,820.00 to furnish and deliver streaming current analyzers for the Public Works & Engineering Department.

Award Amount: \$101,820.00

Finance Budget

\$101,820.00 - Combined Utility System General Purpose Fund (8305)

SPECIFIC EXPLANATION:

The Director of the Public Works and Engineering Department and the City Purchasing Agent recommend that City Council approve an award to Globe Electric Supply Co., Inc. on its low bid in the amount of \$101,820.00 to furnish and deliver streaming current analyzers for the Public Works & Engineering Department and that authorization be given to issue a purchase order. The streaming current analyzers will be used to monitor and maintain proper electro kinetic charges (ionic & colloidal) in coagulated water. The objective is to keep this residual at a minimum, while maintaining desired water quality, and process efficiency at the East Water Purification Plant, located at 2300 Federal Road. The streaming current analyzers will also alert an operator of a feed system failure.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Ten prospective bidders downloaded the solicitation document from SPD's e-bidding website and three bids were received as detailed below:

<u>COMPANY</u>	<u>TOTAL AMOUNT</u>
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2. Hach Company	\$103,364.88
3. Caregivers International	\$174,000.00

This purchase consists of 12 streaming current analyzers and associated equipment. The new streaming current analyzers (units) will come with a full one-year warranty and the life expectancy is 10-15 years. Ten of the 12 units being purchased will replace 16-year-old units, which are inoperable, obsolete and repair parts are no longer available. The old units will be stripped of usable parts and used to repair similar units in the Department's inventory. The remaining two units will be additions to the Department's inventory.

Hire Houston First:

The proposed award requires compliance with the City's Hire Houston First Ordinance that promotes economic opportunity for Houston businesses and supports job creation. In this case, the proposed contractor meets the requirements of Hire Houston First.

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

Date: 7/11/2014	Subject: Formal Bids Received for the Purchase of Streaming Current Analyzers for the Public Works and Engineering Department S50-N24943	Originator's Initials AL	Page 2 of 2
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MWBE Subcontracting:

M/WBE Zero Percentage Goal document approved by the Public Works & Engineering Department Small Business Development Group and the Office of Business Opportunity has provided an approved signed waiver.

Buyer: Art Lopez

65-22



CITY OF HOUSTON

Department of Public Works and Engineering

RECEIVED

OCT 01 2013

Interoffice

Correspondence

OBO

To: Marsha Murray, Assistant Director Office of Business Opportunity

From: Administration Manager Public Works & Engineering Public Utilities Division

Date: September, 30 2013

Attn: Latanja Bolden

Subject: MWBE PARTICIPATION GOAL REQUEST/WAIVER/PURCHASE OF 12 MONITORING SYSTEMS

I am requesting a waiver of the MWBE Goal: Yes [X] No [] Type of Solicitation: Bid [X] Proposal []

Basis for Request? [Ref. Code Ch15,15-83(c)(1)]

I am requesting a new MWBE Goal: Yes [] No [X]

I am requesting a revision of the MWBE Goal: Yes [X] No []

If requesting a revision, how many solicitations were received: _____

Solicitation Number: N/A Estimated Dollar Amount: \$144,000

Anticipated Advertisement Date: _____ Solicitation Due Date: _____

Goal on Last Contract: _____ Was Goal Met? Yes [] No []

If goal was not met, what did the vendor achieve? _____

Name and Intent of this Solicitation: Purchase 12 each Monitoring Streaming Systems to be used at the EWPP. will be used to monitor and maintain proper electro kinetic charge (ionic & colloidal) in coagulated water. The objective is to keep this residual at a minimum while maintaining desired water quality and process efficiency. It can also alert an operator to a feed system failure.

Reason for Requesting a Waiver or Revision (Use additional paper if necessary): These units will be ordered and drop shipped directly from the manufacturer.

MWBE Participation Form

Contract: _____

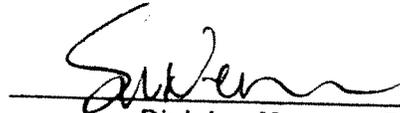
Date: _____

Page 2

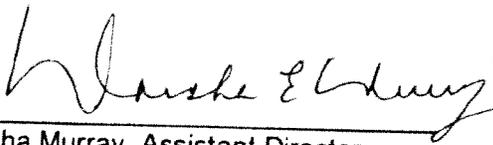
Concurrence:

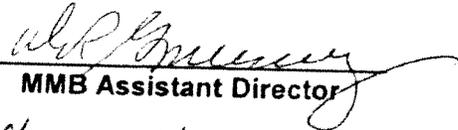


PWE Initiator



Division Manager/PWE

 10/21/13



MMB Assistant Director

Marsha Murray, Assistant Director
* Office of Business Opportunity

Purchase of 12 Monitoring Systems

*Signature is required if the request is for zero percent MWBE participation or to revise the MWBE goal.

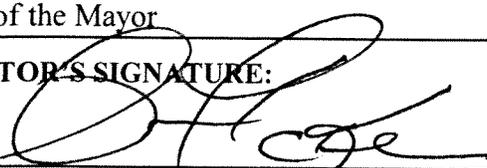
TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

Reso

SUBJECT: A Resolution approving the creation of the Stadium Park Redevelopment Authority; approving the formation documents and confirming the appointment of the initial directors and chairperson	Page 1 of 1	Agenda Item # 11
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FROM: (Department or other point of origin): Andrew F. Icken, Chief Development Officer Office of the Mayor	Origination Date: 7/24/14	Agenda Date: JUL 30 2014
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DIRECTOR'S SIGNATURE: 	Council District affected: K
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For additional information contact: Andy Icken 832-393-1064	Date and identification of prior authorizing Council Action: None
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RECOMMENDATION: (Summary) Approve a Resolution approving the creation of the Stadium Park Redevelopment Authority, the formation documents and the initial board directors and chairperson.

Amount and Source of Funding: N/A

SPECIFIC EXPLANATION:

This Resolution authorizes the creation of a Texas Local Government Corporation to assist the City in soliciting and collecting grants and contributions to fund beautification, green space, landscaping, parks and recreational improvements around and leading to Reliant NRG Park in preparation for Superbowl LI to be played in Houston in February 2017. Subchapter D of Chapter 431 (also cited as 431.101 et seq. of the Texas Transportation Code) and Chapter 22 of the Texas Business Organizations Code, (also cited as 22.01 et seq.) provides that a City may form an LGC to aid in and act on its behalf in performance of governmental functions.

Stadium Park LGC will be a non-profit organization under Chapter 431 and will file for recognition of non-profit status under the Internal Revenue Code 501(c)(3). It is not currently anticipated that City will contribute any tax revenues to the organization. Should the City desire to contribute funds in the future it will be required that the administration will be required to place such item on the agenda for consideration by Council.

It is anticipated that property owners near Reliant Park may seek legislation creating a management district which would impose a fee on those property owners. If the legislation is passed, then this LGC would coordinate its efforts with that management district.

The initial Board shall consist of six members self-selected by property owners and interested persons in the area. Board members are:

- Ed Wulfe, Chair
- Peter Brown
- Susan Young
- Leroy Shafer
- Jamey Rootes
- Melvin Houston

REQUIRED AUTHORIZATION

Finance Budget:	Other Authorization:	Other Authorization:
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City of Houston, Texas, Resolution No. 2014-_____

A RESOLUTION APPROVING THE CREATION OF THE STADIUM PARK REDEVELOPMENT AUTHORITY; APPROVING THE CERTIFICATE OF FORMATION AND THE BYLAWS THEREOF; CONFIRMING THE APPOINTMENT OF THE INITIAL DIRECTORS AND CHAIRPERSON; AND CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, Section 7 of Chapter 1241, Acts of the 71st Legislature of Texas, Regular Session, 1989 [now codified as Subchapter D of Chapter 431, TEXAS TRANSPORTATION CODE (the "Act")] authorizes the creation and organization of public non-profit local government corporations to act as a duly constituted authority of a city to aid and assist the city in the performance of one or more governmental functions; and

WHEREAS, the Act requires a local government corporation to be created pursuant to the provisions of Chapter 394, TEXAS LOCAL GOVERNMENT CODE (Vernon Supp. 1998), ("Chapter 394") and requires the local government corporation's certificate of formation and bylaws to be in the form and to be executed, approved, and filed in the manner prescribed by Chapter 394; and

WHEREAS, a local government corporation may have and exercise all of the powers prescribed by the Act and Article 1396, TEX. REV. CIV. STAT. ANN. (Vernon Supp. 1995) (collectively, the "Acts"); and

WHEREAS, the City desires to create a Local Government Corporation to assist the City in soliciting and collecting grants and contributions to fund beautification, green space, landscaping, parks and recreational improvements around and leading to Reliant NRG Park in preparation for Superbowl LI to be played in Houston in February 2017; and,

WHEREAS, Chapter 394 requires as a condition to the creation of a local government corporation that at least three (3) residents of the city who are citizens of the state and at least eighteen (18) years of age submit a written application for the incorporation of the local government corporation; and

WHEREAS, there has been presented to and filed with the City an application executed by three (3) residents of the City who meet the requirements of Chapter 394 requesting the incorporation of the Stadium Park Redevelopment Authority (the "Authority") and

WHEREAS, City Council desires to grant the application for incorporation of the Authority, authorize its Certificate of Formation, approve its Bylaws, appoint the board of directors of the Authority, and take other action with respect to the Authority; **NOW, THEREFORE:**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. The City Council hereby finds, determines, and declares that the application for the incorporation of the Authority is executed and filed in the manner required by Chapter 394 and the City Council therefore has authority to consider and act on the application for incorporation of the Authority.

Section 2. The City Council hereby finds, determines, recites and declares that it is wise, expedient, necessary, and advisable that the Authority be formed, the creation and organization of the Authority under the provisions of the Acts and Chapter 394 as a duly constituted authority of the City is hereby approved, and the Authority is hereby authorized

to aid, assist, and act on behalf of the City in the performance of its governmental functions to promote the common good and general welfare .

Section 3. The City Council hereby approves the Certificate of Formation of the Authority in substantially the form attached hereto as Exhibit "A" and authorizes the incorporators of the Authority to file such Certificate of Formation with the Secretary of State of the State of Texas in the manner provided by law.

Section 4. The City Council hereby approves the Bylaws of the Authority in substantially the form attached hereto as Exhibit "B".

Section 5. The City Council hereby confirms the appointment of the directors listed in the Certificate of Formation attached hereto.

The City Council hereby confirms the appointment of Ed Wulfe as the initial Chairperson of the Board of Directors. Subsequent chairpersons shall be designated as provided by the bylaws.

Section 6. The City Council hereby finds, determines, recites, and declares that any notes, bonds, loans, debts or other obligations of the Authority shall not be deemed an indebtedness, liability, general or moral obligation or pledge of the faith or credit of the State of Texas, the City of Houston, or any other political subdivision or governmental unit, nor shall any such notes, bonds, loans, debts or other obligations constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction or an agreement, obligation, or indebtedness of the City or of the State of Texas

within the meaning of the City Charter or of any constitutional or statutory provision whatsoever.

Section 7. The City Council hereby finds, determines, recites, and declares that it is the purpose, intent, and desire of the City in approving the creation of the Authority and its Certificate of Formation and Bylaws, that such actions and the Authority hereby authorized comply with the requirements of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations and Internal Revenue Service rulings promulgated thereunder and the rulings issued pursuant thereto, such that the Authority shall be deemed to be a constituted authority acting on behalf of the City pursuant to the provisions of the Acts and Chapter 394, Local Government Code.

PASSED AND ADOPTED this _____ day of _____, 2014.

APPROVED this _____ day of _____, 2014.

Mayor of the City of Houston, Texas

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

(Prepared by Legal Department )
(SEK: June 9, 2014) Senior Assistant City Attorney
(Requested by Andrew F. Icken, Chief Development Officer, Office of the Mayor)
(L.D. File No. _____)

Exhibit A
Certificate of Formation

CERTIFICATE OF FORMATION
OF THE
STADIUM PARK REDEVELOPMENT AUTHORITY

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age or more, and a resident and a qualified voter of the City of Houston, Texas ("City") and a citizen of the State of Texas, acting as organizers of a corporation under the provisions of Subchapter D of Chapter 431, Texas Transportation Code ("Act"), and Chapter 394, Vernon's Texas Codes Annotated, Texas Local Government Code ("Local Government Code"), Article 1396, Vernon's Texas Civil Statutes, now codified in Chapter 22, Texas Business Organizations Code, and the provisions of Title I of the Texas Business Organizations Code applicable to nonprofit corporations ("Business Organizations Code"), do hereby adopt the following Certificate of Formation for such corporation:

ARTICLE I. NAME

The name of the corporation is STADIUM PARK REDEVELOPMENT AUTHORITY ("Corporation").

ARTICLE II. NONPROFIT

The Corporation is a public, nonprofit corporation.

ARTICLE III. DURATION

The period of duration of the Corporation shall be perpetual.

ARTICLE IV. PURPOSES, ACTIVITIES

The Corporation is organized and will be operated exclusively for one or more charitable purposes, within the meaning of Section 501(c)(3) of the U.S. Internal Revenue Code of 1986, as amended ("Code").

The Corporation is organized for the purpose of aiding, assisting, and acting on behalf of the City of Houston, Texas (the "City") in the performance of its governmental functions to collect contributions, grants and other gifts to prepare for Superbowl LI in to be played in Houston in February 2017; to promote the common good and general welfare of the City; to construct, acquire, operate, maintain and finance parks, green space, landscaping, beautification and recreational improvements to benefit the City in the support of hosting the Superbowl and to construct, acquire, operate, maintain and finance public works and improvements in support of hosting the Superbowl.

The Corporation is formed pursuant to the provisions of the Act as it now or may hereafter be amended, and Chapter 394, Texas Local Government Code, which authorizes the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of the purposes for its creation, provided that the Corporation shall not be authorized to make or acquire home mortgages, or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to nonprofit corporations incorporated under the Act including, without limitation, the Business Organizations Code.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to nonprofit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, provided that the Corporation shall not issue bonds without the consent of the City Council of the City.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (2), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code. The Corporation shall have the power to acquire land in accordance with the Act as amended from time to time.

ARTICLE V. NO MEMBERS

The Corporation shall have no members and shall have no stock.

ARTICLE VI. BOARD

All powers of the Corporation shall be vested in a Board consisting of seven (7) persons. The initial directors of the Corporation ("Director" or "Directors") shall be those persons named in Article VII. Each initial Director named in Article VII hereof shall serve for the term prescribed in the Bylaws. Subsequent Directors shall be appointed by position to the Board as prescribed in the Bylaws. Except as provided in the Certificate of Formation, each Director shall serve for the term provided in the Bylaws. Any Director may be removed from office at any time, with or without cause, by the City Council of the City.

The initial Chair shall be Ed Wulfe, and the Mayor of the City shall designate each subsequent Chair of the Board.

If any of the following persons is not serving as a member of the Board, he or she or his or her designee shall serve as an ex-officio, non-voting member of the Board:

- (1) Chief Development Officer, Mayor's Office;
- (2) Director of the City Finance Department;
- (3) Director of the City Department of Public Works and Engineering;
- (4) City Attorney; and
- (5) Director of the City Planning and Development Department; and
- (6) The District City Council member of the City Council district where the Superbowl stadium is located.

In addition, the Board of Directors of the Corporation may designate one or more representatives of the Houston Independent School District, Harris County or other political subdivisions as ex officio, non-voting members of the Board of Directors.

The City Attorney of the City of Houston, Texas, or his or her designee, may serve as legal counsel to the Board.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the Bylaws of the Corporation, so long as the Bylaws are not inconsistent with the Certificate of Formation and the laws of the State of Texas.

ARTICLE VII. INITIAL BOARD

The number of Directors initially constituting the Board is six (6). The names, addresses, and positions of the six (6) initial Directors are as follows:

Position	Name	Address	Initial Term Expires
1	Ed Wulfe	ATTN: Steven Kirkland, City of Houston Legal Department, PO Box 1562, Houston, Texas 77251	December 31, 2017
2	Peter Brown	ATTN: Steven Kirkland, City of Houston Legal Department, PO Box 1562, Houston, Texas 77251	December 31, 2017
3	Susan Young	ATTN: Steven Kirkland, City of Houston Legal Department, PO Box 1562, Houston, Texas 77251	December 31, 2017
4	Leroy Shafer	ATTN: Steven Kirkland, City of Houston Legal Department, PO Box 1562, Houston, Texas 77251	December 31, 2017
5	Jamey Rootes	ATTN: Steven Kirkland, City of Houston Legal Department, PO Box 1562, Houston, Texas 77251	December 31, 2017
6	Melvin Houston	ATTN: Steven Kirkland, City of Houston Legal Department, PO Box 1562, Houston, Texas 77251	December 31, 2017

ARTICLE VIII. REGISTERED OFFICE, AGENT

The street address of the initial registered office of the Corporation is 901 Bagby, 4th Floor, Houston, TX 77002, and the name of its initial registered agent at such address is Andrew F. Icken.

ARTICLE IX. ORGANIZERS

The names and street addresses of the organizers, each of whom resides within the City, are as follows:

<u>Name</u>	<u>Address</u>
Ed Wulfe	6 Boulevard Place, 100 Post Oak Blvd. Houston, TX 77002
Peter Brown	805 Rhode Place, Suite 350 Houston, TX 77019
Susan Young	4200 Montrose Blvd., Houston, TX 77006

ARTICLE X. LIMITED LIABILITY

No Director shall be liable to the Corporation for monetary damages for an act or omission in the Director's capacity as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, whether or not the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by statute. Any repeal or amendment of this Article X by the Directors shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes hereafter enacted that further limits the liability of a Director.

ARTICLE XI. TAX MATTERS

In accordance with the provisions of Section 501(c)(3) of the U.S. Internal Revenue Code of 1986, as amended ("Code"), and regardless of any other provisions of this Certificate of Formation or the laws of the State of Texas, the Corporation: (a) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for personal services rendered to or for the Corporation in effecting one or more of its purposes); (b) shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise; (c) shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office; and (d) shall not attempt to influence the outcome of any election for public office or to carry on, directly or indirectly, any voter registration drives. Any income earned by the Corporation after payment of reasonable expenses, debt and establishing a reserve shall accrue to the City.

The City shall, at all times, have an unrestricted right to receive any income earned by the Corporation, exclusive of amounts needed to cover reasonable expenditures and reasonable reserves for future activities. Unless otherwise directed by the City, any income of the Corporation received by

the City shall be deposited into the designated Tax Increment Fund of Reinvestment Zone Number Twenty-Three, City of Houston, Texas, or its successor. No part of the Corporation's income shall inure to the benefit of any private interests.

If the Board of Directors determines by resolution that the purposes for which the Corporation was formed have been substantially met and all bonds issued by and all obligations incurred by the Corporation have been fully paid, the Board shall execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of Section 394.026 of Vernon's Texas Codes Annotated, Local Government Code, or with applicable law then in existence. In the event of dissolution or liquidation of the Corporation, all assets will be turned over to the City's Finance Department, or its successor, for deposit into the designated Tax Increment Fund of Reinvestment Zone Number Twenty-Three, City of Houston, Texas, unless the City Council shall direct otherwise.

The City's Director of the Department of Public Works and Engineering shall approve any capital project(s) of the Corporation and all plans and specifications of any improvement to be made by the Corporation.

If the Corporation is a private foundation within the meaning of Section 509(a) of the Code, the Corporation: (a) shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code; (b) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Code; (c) shall not retain any excess business holdings as defined in Section 4943(c) of the Code; (d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Code; and (e) shall not make any taxable expenditures as defined in Section 4945(d) of the Code.

ARTICLE XII. DISSOLUTION

The City Council may at any time consider and approve an ordinance or resolution directing the Board to proceed with the dissolution of the Corporation. Upon final approval of such ordinance or resolution, the Board shall proceed with the dissolution of the Corporation in accordance with applicable state law. The failure of the Board to proceed with the dissolution of the Corporation in accordance with this Article shall be deemed a cause for the removal from office of any or all of the Directors as permitted by Article VI of this Certificate of Formation.

ARTICLE XIII. PUBLIC INSTRUMENTALITY

The Corporation is a constituted authority and a public or governmental instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of the City in this Certificate of Formation. However, the Corporation is not a political subdivision or political authority of the State of Texas within the meaning of its constitution and laws, including, without limitation, Article III, Section 52 of the Texas Constitution, and no agreements, bonds, debts or obligations of the Corporation are or shall ever be deemed to be the agreements, bonds, debts, or obligations, or the lending of credit, or grant of public money or thing of value, of or by the City or any other political subdivision or authority or governmental agency of the State of Texas, or a pledge of the faith and credit of any of them. No action of the Corporation shall be deemed an action of the City or its agent or employee, nor shall this Certificate of Formation create a joint enterprise between the City and the Corporation.

ARTICLE XIV. AMENDMENTS

This Certificate of Formation may not be changed or amended unless approved by the City Council of the City.

ARTICLE X. SPONSOR

The City of Houston, Texas is the sponsor of the Corporation. The City has specifically authorized the Corporation to act on the City's behalf to further the public purposes set forth above. Resolution No. _____ approving the form of this Certificate of Formation has been adopted by the City Council of the City of Houston on _____ 2014.

IN WITNESS WHEREOF, we have hereunto set our hands this 9th day of July, 2014.

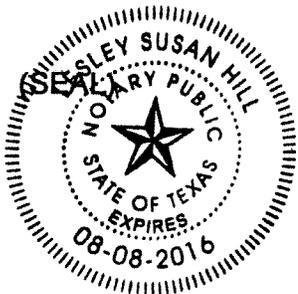
Peter H. Brown
Organizer
Jason C. Clay
Organizer
Edward S. Weir
Organizer

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Peter H. Brown, known to me to be the person whose name is subscribed to the foregoing instrument and who has sworn to me that he or she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of July, 2014.

Geeloy Hill
Notary Public in and for
The State of Texas



THE STATE OF TEXAS

§
§
§

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Susan C. Young, known to me to be the person whose name is subscribed to the foregoing instrument and who has sworn to me that she or he executed the same for the purposes and consideration therein expressed.



GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of July, 2014.

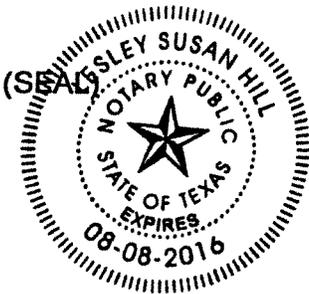
Lesley Hill
Notary Public in and for
The State of Texas

THE STATE OF TEXAS

§
§
§

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Edward Wolfe, known to me to be the person whose name is subscribed to the foregoing instrument and who has sworn to me that he or she executed the same for the purposes and consideration therein expressed.



GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of July, 2014.

Lesley Hill
Notary Public in and for
The State of Texas

Exhibit B
Bylaws

BYLAWS

OF THE

STADIUM PARK REDEVELOPMENT AUTHORITY

A Texas Local Government Corporation
(Created on behalf of the City of Houston)

Date of Adoption: _____, 2014

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ARTICLE I

PURPOSES

The Stadium Park Redevelopment Authority (the "Authority") is organized for the purpose of aiding, assisting, and acting on behalf of the City of Houston, Texas (the "City") in the performance of its governmental functions to collect contributions, grants and other gifts to prepare for Superbowl LI in to be played in Houston in February 2017; to promote the common good and general welfare of the City; to construct, acquire, operate, maintain and finance parks, green space, landscaping, beautification and recreational improvements to benefit the City in the in support of hosting the Superbowl and to construct, acquire, operate, maintain and finance public works and improvements in support of hosting the Superbowl.

The Authority is formed pursuant to the provisions of the Act as it now or may hereafter be amended, and Chapter 394, Local Government Code, which authorizes the Authority to assist and act on behalf of the City and to engage in activities in the furtherance of the purposes for its creation, provided that the Authority shall not be authorized to make or acquire home mortgages, or to make loans to lending institutions, the proceeds of which are to be used to make home mortgages or to make loans on residential developments.

The Authority shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to non-profit corporations incorporated under the Act including, without limitation, Article 1396, Vernon's Texas Civil Statutes.

The Authority shall have all other powers of a like or different nature not prohibited by law which are available to non-profit corporations in Texas and which are necessary or useful to enable the Authority to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, provided that the Authority shall not issue bonds without the consent of the City Council of the City.

The Authority is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (2), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the Authority are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code. The Authority shall have the power to acquire land in accordance with the Act as amended from time to time.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Appointment, Classes, Powers, Number, and Term of Office. All powers of the Authority shall be vested in the Board of Directors (the "Board"). The Board shall initially consist of six (6) persons. Directors of the Authority ("Director or Directors") shall be appointed by position to the Board by the Mayor of the City with the consent and approval of City Council. The Chairman of the Board shall always be appointed by the Mayor of the City.

Each Director shall serve for a term which expires on the date set forth below for the position to which such person was appointed, or until his or her successor is appointed by the City

unless such Director has been appointed to fill an unexpired term in which case the term of the Director shall expire on the expiration date of the term of the Director whose position he or she was appointed to fill. Any Director may be removed from office at any time, with or without cause, by the City Council. The number of Directors may only be increased or decreased by an amendment to the Bylaws with the consent of the City Council of the City.

If any of the following persons are not serving as a member of the Board, he or she or their designee shall serve as an ex-officio, non-voting member of the Board:

- (1) Chief of Staff, Mayor's Office;
- (2) Director of the City Department of Public Works and Engineering;
- (3) City Attorney;
- (4) Director of the City Planning and Development Department;
- (5) Chairman of the Board of the Metropolitan Transit Authority of Harris County; and
- (6) The District City Council member of the City Council district where the superbowl stadium is located.

Any person designated as an ex-officio member of the Board is entitled to notice of and to attend meetings of the Board.

In addition, the Board of Directors of the Authority may designate one or more representatives of Harris County or other political subdivisions as ex officio, non-voting members of the Board of Directors.

Section 2. Meetings of Directors. The Directors may hold their meetings and may have an office and keep the books of the Authority at such place or places within the City as the Board may from time to time determine; provided, however, in the absence of any such determination, such place shall be the registered office of the Authority in the State of Texas.

The Board shall meet in accordance with and file notice of each meeting of the Board for the same length of time and in the same manner and location as is required of a City under Chapter 551, Government Code (the "Open Meetings Act").

The Authority, the Board, and any committee of the Board exercising the powers of the Board are subject to Chapter 552, Government Code (the "Open Records Act").

Section 3. Annual Meetings. The annual meeting of the Board shall be held at the time and at the location in the City designated by the resolution of the Board for the purposes of transacting such business as may be brought before the meeting.

Section 4. Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board.

Section 5. Special and Emergency Meetings. Special and emergency meetings of the Board shall be held whenever called by the Chairperson of the Board or the Secretary or by a

majority of the Directors who are serving duly appointed terms of office at the time the meeting is called. Any and all business may be transacted at any special or emergency meeting to the extent allowed by the Texas Open Meetings Act.

Section 6. Quorum. A majority of the Board then appointed and serving (not counting a board position vacant for any reason, including death, resignation, or disqualification) shall constitute a quorum for the consideration of matters pertaining to the purposes of the Authority. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. The act of a majority of the Directors present and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Certificate of Formation, or by these Bylaws.

A Director who is present at a meeting of the Board at which any corporate action is taken shall be presumed to have assented to such action unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Authority immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of the action.

Section 7. Conduct of Business. At the meetings of the Board, matters pertaining to the purposes of the Authority shall be considered in such order as from time to time the Board may determine.

At all meetings of the Board, the Chairperson shall preside, and in the absence of the Chairperson, the Vice Chairperson shall preside. In the absence of the Chairperson and the Vice Chairperson, a chairperson shall be chosen by the Board from among the Directors present.

The Secretary of the Authority shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 8. Executive Committee, Other Committees. The Board may, by resolution passed by a majority of the Directors, designate two (2) or more Directors to constitute an executive committee or other type of committee. A committee shall act in the manner provided in the authorizing resolution. Committees consisting of a majority or more of the Directors or authorized to exercise the powers of the Board shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the office of the Authority, and shall report the same to the Board from time to time. Committees consisting of a majority or more of the Directors or authorized to exercise the powers of the Board shall give notice of any meeting in the manner required for a meeting of the Board.

Section 9. Compensation of Directors. Directors, as such, shall not receive any salary or compensation for their service, but by resolution of the Board of Directors may be reimbursed for reasonable expenses actually incurred in connection with their service; provided, however, that nothing herein shall preclude any director from serving the Authority in any other capacity or receiving compensation therefor.

Section 10. Board of Advisory Directors. The Board may establish a Board of Advisory Directors composed of members who are, in the judgment of the Board, qualified to advise with respect to the activities of the Authority. Advisory Directors may be removed by the Board at any

time with or without cause. The number of members of the Board of Advisory Directors shall be fixed from time to time by the Board. The officers and Directors of the Authority may consult with the Board of Advisory Directors from time to time with respect to the activities of the Authority, but the Board of Advisory Directors shall in no way restrict the powers of the Board nor limit its responsibilities or obligations. The Board of Advisory Directors shall have no responsibility for the management of the affairs of the Authority. Advisory Directors as such shall not receive any stated salary or compensation for their service, but by resolution of the Board of Directors may be reimbursed for reasonable expenses actually incurred in connection with their service; provided, however, that nothing herein shall preclude any director from serving the Authority in any other capacity or receiving compensation therefor.

Section 11. Director's Reliance on Consultant Information. A Director shall not be liable if while acting in good faith and with ordinary care, he relies on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Authority or another person, that were prepared or presented by:

- (a) one or more other officers or employees of the Authority;
- (b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or
- (c) a committee of the Board of which the Director is not a member.

ARTICLE III

OFFICERS

Section 1. Titles and Term of Office. The officers of the Authority shall be a chairperson of the Board, one or more vice chairpersons of the Board, a president, one or more vice presidents, a secretary, one or more assistant secretaries, a treasurer, one or more investment officers, and such other officers as the Board may from time to time elect or appoint. One person may hold more than one office, except that neither the Chairperson of the Board nor the President shall hold the office of Secretary. The term of office for each officer (other than the Chairperson) shall commence on the date of such officer's election and terminate on the earlier of: the date that the officer is replaced by the board; or, if the officer is a member of the Board, the date that the officer is no longer a member of the Board. The Chairperson shall serve for the term designated by the City Council.

All officers (other than the Chairperson) shall be subject to removal, with or without cause, at any time by a vote of a majority of the whole Board.

A vacancy in the office of any officer (other than the Chairperson) shall be filled by the Board.

Section 2. Powers and Duties of the Chairperson. The Chairperson shall be a member of the Board and shall preside at all meetings of the Board. The Chairperson shall be designated by the Mayor of the City. He or she shall have such duties as are assigned by the Board. The Chairperson may call special or emergency meetings of the Board.

Section 3. Powers and Duties of the Vice Chairpersons. The Vice Chairperson shall be a member of the Board. The Vice Chairperson shall perform the duties and exercise the powers of the Chairperson upon the Chairperson's death, absence, disability, or resignation, or upon the Chairperson's inability to perform the duties of his or her office. Any action taken by the Vice Chairperson in the performance of the duties of the Chairperson shall be conclusive evidence of the absence or inability to act of the Chairperson at the time such action was taken.

Section 4. Powers and Duties of the President. The President shall be the principal executive officer of the Authority and, subject to the Board, he or she shall be in general charge of the properties and affairs of the Authority. In furtherance of the purposes of the Authority and subject to the limitations contained in the Certificate of Formation, the President, Chairperson, or Vice Chairperson may sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts and other obligations in the name of the Authority.

Section 5. Vice Presidents. A Vice President shall have such powers and duties as may be assigned to him or her by the Board or the President, including the performance of the duties of the President upon the death, absence, disability, or resignation of the President, or upon the President's inability to perform the duties of his or her office. Any action taken by the Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability to act of the President at the time such action was taken.

Section 6. Treasurer. The Treasurer shall have custody of all the funds and securities of the Authority which come into his or her hands. When necessary or proper, he or she may endorse, on behalf of the Authority, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Authority in such bank or banks or depositories as shall be designated in the manner prescribed by the Board; he or she may sign all receipts and vouchers for payments made to the Authority, either alone or jointly with such other officer as is designated by the Board; whenever required by the Board, he or she shall render a statement of his or her case account; he or she shall enter or cause to be entered regularly in the books of the Authority to be kept by him or her for that purpose full and accurate accounts of all moneys received and paid out on account of the Authority; he or she shall perform all acts incident to the position of Treasurer subject to the control of the Board; and he or she shall, if required by the Board, give such bond for the faithful discharge of his or her duties in such form as the Board may require.

Section 7. Secretary. The Secretary shall keep the minutes of all meetings of the Board in books provided for that purpose; he or she shall attend to the giving and serving of all notices; in furtherance of the purposes of the Authority and subject to the limitations contained in the Articles of Incorporation, he or she may sign with the President in the name of the Authority and/or attest the signatures thereof, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Authority; he or she shall have charge of the Authority's books, records, documents and instruments, except the books of account and financial records and securities of which the Treasurer shall have custody and charge, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to the inspection of any Director upon application at the office of the Authority during business hours; and, he or she shall in general perform all duties incident to the office of Secretary subject to the control of the Board.

Section 8. Assistant Secretaries. An Assistant Secretary shall perform the duties and exercise the powers of the Secretary upon the Secretary's death, absence, disability, or resignation, or upon the Secretary's inability to perform the duties of his or her office. Any action taken by an

Assistant Secretary in the performance of the duties of the Secretary shall be conclusive evidence of the absence or inability to act of the Secretary at the time such action was taken.

Section 9. Investment Officers. An Investment Officer shall monitor compliance with the Texas Public Funds Investment Act and the Texas Public Funds Collateral Act, shall require the training and instruction required by such acts, and shall prepare, or cause to be prepared, and execute quarterly investment reports and other appropriate documentation pursuant to such acts. An Investment Officer is not required to be a member of the Board and may be a consultant to the Board. The Treasurer may be, but is not required to be, an Investment Officer.

Section 10. Compensation. The salaries and other compensation of the officers of the Authority, if any, shall be fixed from time to time by the Board of Directors. Board members, even in their capacity as officers, are not entitled to compensation except as otherwise provided in Article II, Section 9 of these Bylaws. Notwithstanding any other provision in these Bylaws, the Authority shall not permit any part of the net earnings of the Authority to inure to the benefit of any private individual, taking into account that reasonable compensation may be paid for personal services rendered to to for the Authority if such services affect one or more of the Authority's purposes.

Section 11. Officer's Reliance on Consultant Information. In the discharge of a duty imposed or power conferred on an officer of the Authority, the officer may in good faith and with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Authority or another person, that were prepared or presented by:

(a) one or more other officers or employees of the Authority, including members of the Board; or

(b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

Section 12. Delegation. The Board of Directors may delegate temporarily the powers and duties of any officer of the Authority, in case of such officer's absence or for any other reason, to any officer of the Authority, and may authorize the delegation by any officer of the Authority of any of such officer's powers and duties to any agent or employee of the Authority, subject to the general supervision of such officer.

ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Authority shall begin July 1 of each year.

Section 2. Seal. The seal of the Authority shall be such as from time to time may be approved by the Board.

Section 3. Notice and Waiver of Notice. Whenever any notice other than public notice of a meeting given to comply with the Open Meetings Act, is required to be given under the provisions of these Bylaws, such notice shall be deemed to be sufficient if given by depositing the

same in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Authority, and such notice shall be deemed to have been given on the day of such mailing. A waiver of notice, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Section 4. Resignations. Any Director, officer or Advisory Director may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Chairperson or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5. Gender. References herein to the masculine gender shall also refer to the feminine in all appropriate cases and vice versa.

Section 6. Appropriations and Grants. The Authority shall have the power to request and accept any appropriation, grant, contribution, donation, or other form of aid from the federal government, the State, any political subdivision, or municipality in the State, or from any other source.

Section 7. Contracts. The Chairperson, any Vice Chairperson, the President, or any Vice President may execute and deliver, in the name and on behalf of the Authority, (i) contracts or other instruments and documents authorized for the Board, and (ii) contracts or instruments in the usual and regular course of business, except in cases when the execution or delivery thereof shall be expressly delegated or permitted by the Board or by these Bylaws to some other officer or agent of the Authority. The Board may authorize any officer or officers, or any agent or agents, of the authority to enter into any contract or execute and delivery any instrument in the name of and on behalf of the Authority, and such authority may be general or confined to specific instances. Unless so authorized by the Board or by these Bylaws, no officer, agent or employee shall have any power or authority to bind the Authority by any contract or engagement, or to pledge its credit or to render it pecuniarily liable for any purposes or in any amount.

Section 8. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Authority shall be signed by such directors, officers, or employees of the Authority as shall from time to time be authorized by the Board or by these Bylaws.

Section 9. Depositories. All funds of the Authority shall be deposited from time to time to the credit of the Authority in such banks or other depositories as the Board may from time to time designate and upon such terms and conditions as shall be fixed by the Board. The Board may from time to time authorize the opening and maintaining within any such depository as it may designate of general and special accounts and may make such special rules and regulations with respect thereto as it may deem expedient.

Section 10. Books and Records. The Authority shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board.

Section 11. Use of Assets. Notwithstanding any other provision of these Bylaws, the Authority shall use its assets in performing its charitable functions and shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from income tax under Section

501(c)(3) of the Internal Revenue Code, or corresponding provisions of any subsequent federal tax laws, or (ii) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code, or corresponding provisions of any subsequent federal tax laws.

ARTICLE V

INDEMNIFICATION

Section 1. Right to Indemnification. Subject to the limitations and conditions as provided in this Article V and the Articles of Incorporation, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative or investigative (hereinafter, a "proceeding"), or any appeal in such a proceeding or any inquiry or investigation that could lead to such a proceeding, by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a Director or officer of the Corporation or while a Director or officer of the Corporation is or was serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise shall be indemnified by the Corporation to the fullest extent permitted by the Texas Non-Profit Corporation Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such person in connection with such proceeding, and indemnification under this Article V shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. The rights granted pursuant to this Article V shall be deemed contract rights, and no amendment, modification or repeal of this Article V shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any such amendment, modification or repeal. It is expressly acknowledged that the indemnification provided in this Article V could involve indemnification for negligence or under theories of strict liability.

Section 2. Advance Payment. The right to indemnification conferred in this Article V shall include the right to be paid in advance or reimbursed by the Corporation the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 1 who was, is or is threatened to be made a named defendant or respondent in a proceeding in advance of the final disposition of the proceeding and without any determination as to the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of a written affirmation by such Director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article V and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Article V or otherwise.

Section 3. Indemnification of Employees and Agents. The Corporation, by adoption of a resolution of the Board, may indemnify and advance expenses to an employee or agent of the Corporation to the same extent and subject to the same conditions under which it may indemnify

and advance expenses to Directors and officers under this Article V; and the Corporation may indemnify and advance expenses to persons who are not or were not Directors, officers, employees or agents of the Corporation but who are or were serving at the request of the Corporation as a Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any liability asserted against him or her and incurred by him or her in such a capacity or arising out of his or her status as such a person to the same extent that it may indemnify and advance expenses to Directors under this Article V.

Section 4. Appearance as a Witness. Notwithstanding any other provision of this Article V, the Corporation may pay or reimburse expenses incurred by a Director or officer in connection with his or her appearance as a witness or other participation in a proceeding involving the Corporation or its business at a time when he or she is not a named defendant or respondent in the proceeding.

Section 5. Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article V shall not be exclusive of any other right which a Director or officer or other person indemnified pursuant to Section 3 of this Article V may have or hereafter acquire under any law (common or statutory), provision of the Articles of Incorporation or these Bylaws, agreement, vote of shareholders or disinterested Directors or otherwise.

Section 6. Insurance. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any person who is or was serving as a Director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, proprietorship, employee benefit plan, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under this Article V.

Section 7. Notification. Any indemnification of or advance of expenses to a Director or officer in accordance with this Article V shall be reported in writing to the members of the Board with or before the notice of the next regular meeting of the Board and, in any case, within the 12-month period immediately following the date of the indemnification or advance.

Section 8. Savings Clause. If this Article V or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each Director, officer or any other person indemnified pursuant to this Article V as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, to the full extent permitted by any applicable portion of this Article V that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE VI

PROVISIONS RELATING TO MINORITY CONTRACTING

The Authority shall attempt to stimulate the growth of disadvantaged businesses inside the City by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for Authority contracts. The Authority shall establish one or more programs designed to increase participation by disadvantaged businesses in contract awards which will conform to City approved programs. Any program established by the Authority shall provide that disadvantaged businesses certified by the City shall be the disadvantaged businesses certified for Authority contracts.

ARTICLE VII

CODE OF ETHICS

Section 1. Policy and Purposes.

(a) It is the policy of the Authority that Directors and officers conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting corporate business; that the appearance of impropriety be avoided to ensure and maintain public confidence in the Authority; and that the Board establish policies to control and manage the affairs of the Authority fairly, impartially, and without discrimination.

(b) This Code of Ethics has been adopted as part of the Authority's Bylaws for the following purposes: (a) to encourage high ethical standards in official conduct by Directors and corporate officers; and (b) to establish guidelines for such ethical standards of conduct.

Section 2. Conflicts of Interest.

(a) Except as provided in subsection (c), a Director or officer is prohibited from participating in a vote, decision, or award of a contract involving a business entity or real property in which the Director or the officer has a substantial interest, if it is foreseeable that the business entity or real property will be economically benefited by the action. A person has a substantial interest in a business (i) if his or her ownership interest is ten percent or more of the voting stock or shares of the business entity or ownership of \$15,000 or more of the fair market value of the business entity, or (ii) if the business entity provides more than ten percent of the person's gross income. A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. An interest of a person related in the second degree by affinity or the third degree by consanguinity to a Director or officer is considered a substantial interest.

(b) If a Director or a person related to a Director in the first or second degree by affinity or the first, second, or third degree by consanguinity has a substantial interest in a business entity or real property that would be pecuniarily affected by any official action taken by the Board, such Director, before a vote or decision on the matter, shall file a one-time affidavit stating the nature and extent of the interest. The affidavit shall be filed with the Secretary of the Board. An additional affidavit is not required if the Director's interest changes.

(c) A Director who has a substantial interest in a business entity that will receive a pecuniary benefit from an action of the Board may vote on that action if a majority of the Board has a similar interest in the same action or if all other similar business entities in the Authority will receive a similar pecuniary benefit.

(d) An official or employee of a public entity may serve on the Board.

(e) No Director or officer shall engage in or accept private employment or render services for private interests when such employment or service is, directly or indirectly, in conflict with the proper discharge of that person's official duties; or which may affect or impair the independence of judgment or action in the performance of official duties.

(f) No Director or officer shall represent, directly or indirectly, any private person or interest:

(1) Before the Board, except in matters of purely public or civic concern and then only without compensation or remuneration;

(2) In any action or proceeding against the interest of the Authority or city or in any litigation in which the Authority, city or any city department, agency, commission or board is a party.

(g) No Director or officer shall use confidential information obtained during the proper discharge of his or her official duties to advance the financial or other private interest of himself or others.

Section 3. Acceptance of Gifts. No Director or officer shall accept any gift, favor, service or other thing of value in excess of \$50.00 and which would reasonably be calculated to improperly influence him or her in the discharge of official duties, and which would not be given or offered were he not a Director or officer of the Authority. No Director or officer shall grant in the discharge of his or her official duties any improper favor, service or thing of value.

Notwithstanding the above, the following shall be permitted:

(a) a fee prescribed by law to be received by a Director or officer or any other benefit to which the Director or officer is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a Director or officer;

(b) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the Director or officer;

(c) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:

(1) not more than one honorarium is received from the same person in a calendar year;

(2) not more than one honorarium is received for the same service; and

(3) the value of the honorarium does not exceed \$250 exclusive of reimbursement for travel, food, and lodging expenses incurred by the Director or officer in performance of the services;

(d) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest is reported as may be required by law.

Section 4. Bribery. A Director or officer shall not intentionally or knowingly offer, confer or agree to confer on another, or solicit, accept, or agree to accept from another:

(a) any benefit as consideration for the Director's or officer's decision, opinion, recommendation, vote, or other exercise of discretion as a Director or officer;

(b) any benefit as consideration for the Director's or officer's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(c) any benefit as consideration for a violation of a duty imposed by law on the Director or officer.

Section 5. Nepotism. No Director or officer shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity (marriage relationship) or within the third degree of consanguinity (blood relationship) to the Director or officer so appointing, voting or confirming, or to any other Director or officer. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty at least thirty (30) days prior to the appointment of the Director or officer so appointing or voting.

ARTICLE VIII

AMENDMENTS

A proposal to alter, amend, or repeal these Bylaws shall be made by the affirmative vote of a majority of the full Board at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting. However, any proposed change or amendment to the Bylaws must be approved by the City Council of the City to be effective.

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Lease Agreement between the City of Houston and Expedite!, Inc. - George Bush Intercontinental Airport/Houston (IAH).	Category #	Page 1 of 1	Agenda Item # 12
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FROM (Department or other point of origin): Houston Airport System	Origination Date June 30, 2014	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE: <i>[Signature]</i> 7-11-14	Council District affected: B
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For additional information contact: Kathy Elek <i>fac</i> Phone: 281-233-1826 Ian Wadsworth <i>INW</i> Phone: 281-233-1682 <i>TAC</i>	Date and identification of prior authorizing Council action: N/A
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AMOUNT & SOURCE OF FUNDING: Revenue - \$15,040.56 annually	Prior appropriations: N/A
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RECOMMENDATION: (Summary) Enact an ordinance approving and authorizing a Lease Agreement between the City of Houston and Expedite!, Inc. at George Bush Intercontinental Airport /Houston (IAH).

SPECIFIC EXPLANATION: Expedite!, Inc. ("Lessee") has requested to lease office and warehouse space for its freight forwarding operations at George Bush Intercontinental Airport/Houston (IAH).

The pertinent terms and conditions of this lease agreement are as follows:

1. Premises: Approximately 3,115 square feet of office and warehouse space at 5717 Will Clayton Parkway (IAH).
2. Term: Ten (10) years. The Lessee or the Director shall have the right to terminate this lease upon 90 days' prior written notice to the other party.
3. Rent: \$15,040.56 per year and shall escalate 3% annually over the prior year's rental rate.
4. Use: The space is to be used for storage and office space for freight forwarding operations.
5. Maintenance and Utilities: Lessee shall assume the entire responsibility, cost and expense for all maintenance of the leased premises and shall be responsible for all utilities or services to the leased premises.
6. Other: Lessee shall indemnify and hold the City harmless and shall provide the required insurance in the limits as stated in the lease.

REQUIRED AUTHORIZATION

Finance Department:	Other Authorization:	Other Authorization:
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12

SUBJECT: Construction Contract with ISI Contracting, Inc. for Concrete Pavement Reconstruction, Drainage Improvements and Utilities Relocation for Ellington Airport (EFD) Entry Roadway Along Challenger 7 Parkway; Project No. 628/633; (WBS# A-000441-0001-4-01-01; A-000441-0001-4-01-02)	Category #	Page 1 of 2	Agenda Item # <div style="text-align: right; font-size: 2em;">13</div>
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FROM (Department or other point of origin): Houston Airport System	Origination Date July 9, 2014	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE:  7-11-14	Council District affected: E
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For additional information contact: Kathy Elek <i>Kae</i> Phone: 281-233-1826 Jeffrey Brown <i>JB</i> 281-233-1909	Date and identification of prior authorizing Council action: N/A
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AMOUNT & SOURCE OF FUNDING: CIP No. A-0441.02 \$3,323,476.74 – HAS Arpt Improvement (8011) CIP No. A-0441.04 \$ 94,956.48 – HAS Arpt Improvement (8011) TOTAL \$3,418,433.22	Prior appropriations: N/A
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RECOMMENDATION: (Summary) Enact an ordinance to award a construction contract to ISI Contracting, Inc. for Concrete Pavement Reconstruction, Drainage Improvements and Utilities Relocation for Ellington Airport (EFD) Entry Roadway Along Challenger 7 Parkway and appropriate the necessary funds to finance the cost of these services.

PROJECT LOCATION: Ellington Airport (EFD)

SPECIFIC EXPLANATION: This contract will include the replacement of the asphalt section of Challenger Parkway south of Hillard Street with concrete pavement, the reconstruction of Morton Avenue and Hutchinson Street with a wider concrete section and larger turning radii, and the replacement of the existing storm drainage system along Hutchinson Street and between Hillard Street and Aerospace Avenue. The entry roadway pavement widths along Challenger 7 Parkway are sub-standard and are inadequate for truck traffic to and from the hangars in the immediate vicinity at Ellington Airport (EFD). In addition, the radii at each of the intersecting side-streets are not large enough for truck turning movements.

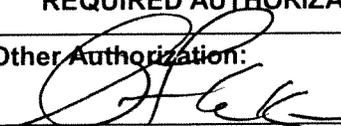
This contract will also relocate existing overhead electrical and telecommunication utilities to accommodate the future construction of a new facility for the Lone Star Flight Museum that is being relocated from Galveston.

The contract term is 180 days. Construction documents were prepared by Houston Airport System personnel and by Jacobs Engineering Group.

BID DATE: Bids were received on May 1, 2014 as follows:

Company	Bid Amount
1. Metro City Construction	\$1,834,672.45 (Incomplete Bid)
2. ISI Contracting, Inc.	\$3,165,215.95
3. SpawGlass Civil Construction	\$3,390,289.04
4. Koasati Construction Management	\$3,845,537.04
5. Total Contracting Limited	\$7,111,518.50

ENGINEERING TESTING SERVICES CONTRACT: Engineering testing services will be provided by HVJ Associates under Contract No. 4600012372.

REQUIRED AUTHORIZATION		
Finance Department:	Other Authorization: 	Other Authorization:

Date: July 9, 2014	Subject: Construction Contract with ISI Contracting, Inc. for Concrete Pavement Reconstruction, Drainage Improvements and Utilities Relocation for Ellington Airport (EFD) Entry Roadway Along Challenger 7 Parkway; Project No. 628/633; (WBS# A-000441-0001-4-01-01; A-000441-0001-4-01-02)	Originator's Initials JD/AD	Page 2 of 2
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PROJECT COST: The total amount to be appropriated under this contract is as follows:

\$3,165,215.95	Construction Contract
\$ 158,260.79	Construction Contingency (5%)
<u>\$ 94,956.48</u>	<u>Engineering Testing Services (3%)</u>
\$3,418,433.22	Total Appropriation

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

HIRE HOUSTON FIRST: The proposed contract requires compliance with the City's 'Hire Houston First' (HHF) ordinance. In this case, the HHF-designated firm was not within three percent (3%) of the low bid amount.

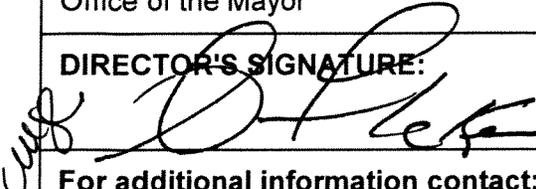
M/WBE PARTICIPATION: The Minority Business Enterprise (MBE) goal is eighteen percent (18%) and the Women Business Enterprise (WBE) goal is four percent (4%), which comprises a total overall goal of twenty-two percent (22%) for this contract. The goal will be met by the following certified firms:

Firm	Type of Work	Amount	%
Professional Traffic Control, LLC	Barricades & Striping	\$ 94,956.48	3%
Access Data Supply, Inc.	Pipe & Inlets	\$ 474,782.39	15%
H&E Aggregate, LLC	Sand & Base	\$ 126,608.64	4%
	TOTAL	\$ 696,347.51	22%

R

<p>SUBJECT: Ordinance authorizing a Purchase and Sale Agreement between the City of Houston and Coastal Water Authority, seller, and Alliance Realty Partners, LLC, purchaser, to sell CWA Gillette Street, a subdivision in Harris County, Texas.</p>		<p>Page 1 of 1</p>	<p>Agenda Item 15</p>
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<p>FROM (Department or other point of origin): Andrew F. Icken, Chief Development Officer Office of the Mayor</p>	<p>Origination Date 7/17/2014</p>	<p>Agenda Date 7/23/2014 JUL 30 2014</p>
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<p>DIRECTOR'S SIGNATURE: </p>	<p>Council District affected: C</p>
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<p>For additional information contact: Andy Icken 832-393-1064</p>	<p>Date and identification of prior authorizing Council action: Ord. No. 2012-583 (6/20/2012)</p>
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RECOMMENDATION: It is recommended that City Council approve an ordinance authorizing a Purchase and Sale Agreement between the City of Houston and Coastal Water Authority, seller, and Alliance Realty Partners, LLC, purchaser, to sell CWA Gillette Street, a subdivision in Harris County, Texas.

Amount and Source Of Funding: Not applicable.

SPECIFIC EXPLANATION:

By Ordinance No. 2012, 583, City Council authorized the sale of an 11/16ths undivided interest in real property located at 801 Gillette Street, Houston, Texas (the "Property"), to Coastal Water Authority ("CWA"), in consideration of CWA's payment of \$11,000,000.00, management of the environmental remediation of the Property, and other consideration. The remediation costs are currently estimated to be approximately \$5,000,000.00. A Co-Ownership Agreement entered into by the City and CWA provided that, after the sale to CWA, the City could market the Property for sale with CWA's prior written consent. CWA gave its consent to the City's marketing the Property.

The City entertained a number of bids from potential purchasers of the Property, with the bid with the best value and most likely to close on schedule being a bid of \$39,500,000.00 submitted by Alliance Realty Partners, LLC, a Delaware limited liability company ("Purchaser"). This gross amount will be reduced by payment of marketing costs of approximately \$1,000,000.00.

The City and Purchaser have negotiated a Purchase and Sale Agreement (the "Agreement") for the sale of the Property.

It is requested that City Council approve the Purchase and Sale Agreement and authorize the sale of the Property pursuant to the terms of the agreement. Approval of the agreement will initiate a period of 30 days for the Purchaser to perform its due diligence, with the sale of the Property to take place after receipt of the final approval of the remediation by the Texas Commission on Environmental Quality ("TCEQ"). TCEQ's approval is expected in December 2014.

REQUIRED AUTHORIZATION

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REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA#

Subject: APPROVE AN AMENDMENT TO ORDINANCE NO. 2010-0140, TO INCREASE THE MAXIMUM CONTRACT AMOUNT AND AMEND THE AGREEMENT BETWEEN THE CITY OF HOUSTON AND SPAY NEUTER ASSISTANCE PROGRAM, Inc. ("SNAP")

Category #

Page 1 of 2

Agenda Item

16

FROM (Department or other point of origin):

Tina Paez, Director
Administration & Regulatory Affairs Department

Origination Date

July 24, 2014

Agenda Date

JUL 30 2014

DIRECTOR'S SIGNATURE

[Handwritten signature]

Council District(s) affected:

All

For additional information contact:

Greg Damianoff Phone: (713) 229-7321
Charles Jackson Phone: (713) 229-7312

Date and Identification of prior authorizing Council Action:

Ord. #2010-0140, passed 2/17/2010;
Ord. #2013-746, passed 8/21/2013

RECOMMENDATION: (Summary)

Approve an amendment to Ordinance No. 2010-0140, increasing the maximum contract amount and amending the agreement between the City of Houston and Spay Neuter Assistance Program, Inc. ("SNAP"), to add spay/neuter services at SNAP's non-mobile facility, and to amend the fee schedule to include a range of fees for spay/neuter services, and other related services for the BARC Division of the Administration & Regulatory Affairs Department.

Amount of Funding: \$100,000.00.

New Maximum Contract Amount – \$620,000 BARC Special Revenue Fund (2427)

FIN Budget

SOURCE OF FUNDING: BARC Special Revenue Fund (2427)

SPECIFIC EXPLANATION:

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve an amendment to Ordinance No. 2010-0140, increasing the maximum contract amount by \$100,000 to \$620,000 and amending the agreement between the City of Houston and Spay Neuter Assistance Program, Inc. ("SNAP"), to add spay/neuter services at SNAP's non-mobile facility, and to amend the fee schedule to include a range of fees for spay/neuter services, and other related services, for the BARC Division of the Administration & Regulatory Affairs Department.

The current contract was awarded in February 2010 for a one-year term with four, successive, one-year renewals. Under the current contract, the City reimburses SNAP at a flat rate of \$40 per spay/neuter performed at its mobile facilities – a reimbursement of approximately 40% of the actual cost of the procedures.

In the summer of 2013, BARC began the Healthy Pets, Healthy Streets Initiative pilot program and requested SNAP expand services under the contract to include no-cost canine spay/neuter services for dogs ranging from 1 pound to more than 100 pounds at SNAP's mobile and non-mobile facilities. With this variation in the size of animals being treated, as well as the exponential increase in the volume of animals requiring services, and the use of SNAP's non-mobile facilities, BARC's flat rate reimbursement of \$40 to SNAP became insufficient. Accordingly, in August 2013, ARA sought City Council's approval to amend the City's contract with SNAP to increase the maximum spending authority to \$520,000 to allow sufficient spending authority for the variation in animal sizes, the use of the non-mobile facilities, and the increased volume to be performed for the Healthy Pets, Healthy Streets Initiative pilot. Although the spending authority increase was approved by City Council, ARA failed to simultaneously request an amendment to the contract scope of services and fee schedule to accommodate these new services.

Believing that they would be paid for these services, SNAP performed spay/neuter services from July 31, 2013 through March 31, 2014, but has not been paid the increased fees. SNAP will not continue to perform these services for the Healthy Pets, Healthy Streets Initiative unless these invoices, totaling \$15,757, are paid and a new fee schedule is approved. In consideration of the payment of \$15,757.00, SNAP has agreed to:

REQUIRED AUTHORIZATION

FIN Department:

Other Authorization:

Other Authorization:

Date: 07/23/2014	Subject: APPROVE AN AMENDMENT TO ORDINANCE NO. 2010-0140, TO INCREASE THE MAXIMUM CONTRACT AMOUNT AND AMEND THE AGREEMENT BETWEEN THE CITY OF HOUSTON AND SPAY NEUTER ASSISTANCE PROGRAM, Inc. ("SNAP")	Originator's Initials TP	Page 2 of 2
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- Provide services at its non-mobile facilities
- Accept an additional one-year renewal term
- Accept payment of \$15,757 for those services provided from July 31, 2013 to March 31, 2014
- Amend the fee schedule in the agreement to provide for a range of fees to accommodate the varying sizes and the gender of the dogs (from \$40 to \$120)
- Continue to provide spay/neuter services for dogs and cats

Under the proposed amended scope of services, BARC will partner with SNAP on the following programs:

- Continue to sterilize and vaccinate feral and un-owned free-roaming cats under a Trap-Neuter-Release ("TNR") program;
- No-cost spay/neuter and rabies vaccination services to qualifying low-income residents at SNAP's mobile and non-mobile facilities.
- Spay/neuter services to BARC at non-mobile facilities

SNAP provides all facilities, equipment and licensed veterinary personnel necessary to perform spay/neuter operations on dogs and cats. Every animal spayed/neutered is also vaccinated against rabies. SNAP is responsible for securing sites for its mobile clinic to perform services in selected neighborhoods, and to produce and disseminate marketing materials to optimize community response.

To receive a no-cost spay/neuter procedure, a client must provide proof of participation in one of several low-income assistance programs. These include: food stamps, WIC, Medicaid, Harris County Hospital District Gold Card, Temporary Assistance for Needy Families (TANF), Social Security Disability (SSD), Supplemental Security Income (SSI), Section 8 Housing, and School Free Lunch Program.

During FY2014, the Healthy Pets, Healthy Streets Initiative reached approximately 900 households, affecting almost 300 pets. The initiative was 100% privately funded, with about \$33,400 earmarked specifically for this purpose in FY2014. Throughout FY2015, BARC intends to continue to expand the program, thus, we request this contract be amended as expeditiously as possible to prevent any lapse in these critical services.

TO: Mayor via City Secretary

SUBJECT: An ordinance amending Ordinance No. 2013-0809, as amended, to increase the maximum contract amount for payment of litigation expenses provided for in an agreement, as amended, with **Susman Godfrey L.L.P.** for representation of the City in pending litigation with Xerox State and Local Solutions, Inc., a/k/a and f/n/a ACS State and Local Solutions, Inc.

Category #

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1 of 1

Agenda Item #

17

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

Origination Date
7/24/14

Agenda Date
JUL 30 2014

DIRECTOR'S SIGNATURE:

David M. Feldman



Council Districts affected:
All

For additional information contact:

Lynette Fons-Legal 832-393-6282

Date and identification of prior authorizing Council Action:
Ordinance No. 2013-0809 passed 09/18/2013 and Ordinance No. 2013-1200 passed 12/18/2013

RECOMMENDATION: (Summary)

Adopt an ordinance amending Ordinance No. 2013-0809, as amended, to increase the maximum contract amount for payment of litigation expenses provided for in an agreement, as amended, for legal services between the City of Houston and **Susman Godfrey L.L.P.**, for representation of the City in pending litigation with Xerox State and Local Solutions, Inc., a/k/a and f/n/a ACS State and Local Solutions, Inc., in the case, *City of Houston, Texas v. Xerox State and Local Solutions, Inc.*, a/k/a and f/n/a ACS State and Local Solutions, Inc., in the United States District Court for the Southern District of Texas case number 4:13-cv-02532.

AMOUNT AND SOURCE OF FUNDING:

\$725,000.00 current Maximum Contract Amount

Additional funding, \$500,000.00.

\$1,225,000 new Maximum Contract Amount to be paid from the General Fund.

SPECIFIC EXPLANATION:

The City entered into a Professional Services Agreement with Susman Godfrey L.L.P., countersigned September 23, 2013 relating to the firm's representation of the City in pending litigation with Xerox State and Local Solutions, Inc., a/k/a and f/n/a ACS State and Local Solutions, Inc. entitled *City of Houston, Texas v. Xerox State and Local Solutions, Inc.*, a/k/a and f/n/a ACS State and Local Solutions, Inc., in the United State District Court for the Southern District of Texas, and bearing case number 4:13-cv-02532. In December 18, 2013 the Maximum Contract Amount was increased to pay litigation related expenses and the Agreement was amended by Ordinance No. 2013-1200 to provide for the law firm to retain Expert Witnesses as directed and approved by the City Attorney. Under the terms of the City's amended agreement with the law firm, the City is responsible for the payment of litigation expenses, including Expert Fees, which expenses are subject to the approval by the Office of the City Attorney before they are paid. In the event of a favorable resolution, the law firm's contingency fee will be calculated only after the City has been fully reimbursed for its payments related to litigation expenses.

Attorney Fees \$450,000.00
Litigation Expenses \$775,000.00
Total \$1,225,000.00

The subject litigation is complex and specialized and has proven to be data and expert intensive. The amount previously encumbered has not been sufficient to pay all reasonable and necessary ongoing litigation expenses.

Finance Director:

Other Authorization:

Other Authorization:

TQ: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: An Ordinance approving and authorizing settlement, release, and indemnity agreement between the City of Houston, et al. and Lisa Bean-Kemp, et al. (USDC Civil Action; 4:10-cv-03111) to settle a lawsuit.	Category # 6	Page 1 of 2	Agenda Item # <div style="text-align: right; font-size: 2em;">18</div>
FROM (Department or other point of origin): Legal Department	Origination Date July 15, 2014	Agenda Date <div style="text-align: center; font-size: 1.5em;">JUL 30 2014</div>	
DIRECTOR'S SIGNATURE: 	Council District affected: All		
For additional information contact: Don Fleming: 832.393.6303 Van Gardner: 832.393.7457	Date and identification of prior authorizing Council action: <div style="text-align: center;">N/A</div>		
RECOMMENDATION: (Summary) That Council adopt an Ordinance approving and authorizing a settlement, release, and indemnity agreement between the City of Houston, et al. and Lisa Bean-Kemp, et al. (USDC Civil Action; 4:10-cv-03111) to settle a lawsuit.			
Amount and Source of Funding: \$5,000,000.00 – Fund 1004 – Property and Casualty Fund			
SPECIFIC EXPLANATION: <p>On January 14, 2009, during the late hours of the evening, a Harris County constable's vehicle was stolen by a person being placed into custody and a chase ensued. In response to the rapidly unfolding and dangerous events taking place, HPD Sgt. Richard Hatcher ("Hatcher") arrived at a freeway location on I-10 just ahead of the hijacked vehicle. HPD Officer Munoz ("Munoz") also arrived at the same freeway location a few minutes later. In an attempt to stop the stolen vehicle, Hatcher removed spike strips from his trunk and raced across traffic lanes to throw the strip across the freeway's unoccupied inside lanes. Munoz positioned his vehicle across the outside 2 lanes of traffic to protect Hatcher from being run over by passing cars.</p> <p>Seconds later, the stolen vehicle collided with plaintiffs' vehicle located in the center lanes of the freeway rather than changing lanes and taking the open course. Nineteen-year-old and twenty-year-old Mecole Roques and Dexter Sewell, respectively, sustained catastrophic head injuries which will permanently prevent them from working or living independently. Both men are expected to require extensive in-home care or in-patient facility care for the remainder of their lives. Guardianship proceedings were initiated and legal guardians have been appointed to oversee the persons and estates of Mr. Sewell and Mr. Roques. Legal guardians have also been appointed for Demeriyah Sewell and Jaiden Roques, the mens' minor children.</p> <p>As a result of the incident, suit was brought on behalf of Mr. Sewell, Mr. Roques, and the minor children by their respective court appointed guardians who sought recovery individually and in their representative capacities against the City, former Chief of Police Harold Hurtt, and Munoz in Civil Action No. 4:10-cv-03111; Lisa Bean-Kemp, et al. v. City of Houston, et al.; in the United States District Court for the Southern District of Texas, Houston Division (the "Lawsuit"). Plaintiffs brought the lawsuit pursuant to 42 U.S.C. Section 1983, alleging in part, unreasonable seizure, violation of due process and violation of the Fourth and Fourteenth Amendments of the U. S. Constitution. Damages sought by plaintiffs are in excess of \$30,000,000.00 related to past and future loss of income and medical and life care expenses.</p>			
REQUIRED AUTHORIZATION			
Other Authorization:	Other Authorization:	Other Authorization:	

Date July 15, 2014	SUBJECT: An Ordinance approving and authorizing settlement, release, and indemnity agreement between the City of Houston, et al. and Lisa Bean-Kemp, et al. (USDC Civil Action; 4:10-cv-03111) to settle a lawsuit.	Originator's Initials	Page 2 of 2
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This settlement has been approved by the minors' court appointed ad litem and the federal trial judge (on behalf of the minors). The probate court judge overseeing the estates and persons of the adults and minor plaintiffs has also approved the settlement.

Upon review, the Legal Department recommends that it is in the best interest of the City, former Chief of Police Harold Hurtt, and Munoz to settle this matter for a total amount of \$5,000,000.00 with warrants made payable as follows: (1) warrant payable in the amount of \$2,450,000.00 to "The Bean/Sewell Qualified Settlement Fund" (Estate of Mecole Roques and his attorney, Michael Callahan); (2) warrant payable in the amount of \$2,450,000.00 to "The Bean/Sewell Qualified Settlement Fund" (Estate of Dexter Sewell and his attorney, Michael Callahan); (3) warrant payable in the amount of \$50,000.00 to "The Bean/Sewell Qualified Settlement Fund" (Estate of Jaiden Roques, a minor and his attorney Michael Callahan); and (4) warrant payable in the amount of \$50,000.00 to "The Bean/Sewell Qualified Settlement Fund" (Estate of Demeriyah Sewell, a minor and her attorney Michael Callahan), in satisfaction of all claims.

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance amending Ordinance No. 2014-544, an ordinance designating all improved single-family residential lots in the Brays Forest Subdivision, Sections 4 R/P, 5 R/P and 6 as a Prohibited Yard Parking Requirement Area	Category #	Page 1 of _____	Agenda Item # 19
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FROM (Department or other point of origin): Patrick Walsh, P.E. Director Planning and Development Department	Origination Date July 18, 2014	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE: 	Council District affected: F
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For additional information contact: Kevin Calfee Phone: 713.837.7768	Date and identification of prior authorizing Council action: 2009-0059, 1-28-09
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RECOMMENDATION: (Summary) Approval of an ordinance amending Ordinance No. 2014-544, an ordinance designating all improved single-family residential lots in the Brays Forest Subdivision, Sections 4 R/P, 5 R/P and 6 as a Prohibited Yard Parking Requirement Area, pursuant to Chapter 28 of the Code of Ordinances, restricting parking on the front and side yard of single-family residential property.

Amount and Source of Funding: NA	Finance Budget:
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SPECIFIC EXPLANATION: City Council approved the Brays Forest Patio Homes Maintenance Fund, Inc. Prohibited Yard Parking application on June 4, 2014, passing and adopting Ordinance 2014-544. The Exhibit A in the adopted ordinance contained the wrong property list. The ordinance needs to be amended to correct the property list in Exhibit A.

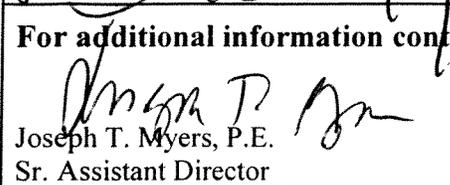
It is recommended that the City Council adopt an ordinance amending Ordinance No. 2014-544, an ordinance establishing a Prohibited Yard Parking Requirement Area.

Attachments:
Planning Director's Approval
Ordinance No. 2014-544

- xc: Anna Russell, City Secretary
David M. Feldman, City Attorney
Tracy Calabrese, Senior Assistant City Attorney
Chief C.A. McClelland, HPD
Katie Tipton, Director, DON

REQUIRED AUTHORIZATION

Finance Director:	Other Authorization:	Other Authorization:
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SUBJECT: Adopt an Ordinance approving payment of certain contract funds to Total Contracting Limited for Neighborhood Street Reconstruction Project No. 445; WBS No. N-000377-0001-4.	Page 1 of 2	Agenda Item # 20
FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7/24/14	Agenda Date JUL 30 2014
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E., Director	Council District affected: H, I 	
For additional information contact:  Joseph T. Myers, P.E. Sr. Assistant Director Phone: (832) 395-2355	Date and identification of prior authorizing Council action: Ord. # 2004-1310 dated: 12/21/2004	

RECOMMENDATION: (Summary) Adopt an Ordinance approving payment of certain contract funds in the amount of \$34,550.40 to Total Contracting Limited for Neighborhood Street Reconstruction Project No. 445; WBS No. N-000377-0001-4.

Amount and Source of Funding: No additional funding required.
Total (original) appropriation of \$4,192,800.00 with \$3,440,354.27 from the Series E Commercial Metro Paper Fund No. 49M and \$752,445.73 from Water and Sewer System Consolidated Construction Fund No. 755 (\$483,346.76 from S-000500-0017-4 and \$269,098.97 from R-000500-0017-4).

PROJECT NOTICE/JUSTIFICATION: This project was part of the Neighborhood Street Reconstruction Program and was required to improve the streets and upgrade the utilities for the various streets.

DESCRIPTION/SCOPE: This project consisted of reconstruction of neighborhood streets. The proposed improvements included concrete roadway with curbs, sidewalks, and utilities. Carter and Burgess, Inc. designed the project with 330 calendar days allowed for construction. The project was awarded to Total Contracting Limited with an original Contract amount of \$3,498,099.52.

LOCATION: This proposed streets limits and Key Map Grid locations are as follows:

<u>Street</u>	<u>Limits</u>	<u>Key Map Grids</u>	<u>District</u>
Coolgreen	Maxey to Highridge	456 Y&Z	I
Eagle Pass	N.Wayside to dead-end	495 A	H
Exchange	Hillsboro to Eagle pass	495 A&E	H
Hillsboro	N.Wayside to dead-end	495 E	H
Meters	Hillsboro to Eagle Pass	495 A&E	H
Terminal	Hillsboro to Eagle Pass	495 A&E	H

CONTRACT COMPLETION AND COST: The Contractor last performed work under the Contract on 6/7/2006, a date 73 days beyond the established completion date for the project, and no further work by Contractor is contemplated. Money remains encumbered under the Contract. Recommended action will authorize PWE to administratively close this Contract and to pay \$34,550.40, an amount earned by Contractor less amounts which are due per this Contract to the City for liquidated damages (73 days at \$1,200.00/day = \$87,600.00) and adjustments in favor of the City as determined by the City Engineer.

REQUIRED AUTHORIZATION

20HA238

Finance Department:

Other Authorization:

Other Authorization:

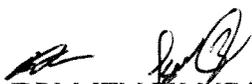

Daniel R. Menendez, P.E., Deputy Director
Engineering and Construction Division

Date	SUBJECT: Adopt an Ordinance approving payment of certain contract funds to Total Contracting Limited for Neighborhood Street Reconstruction Project No. 445; WBS No. N-000377-0001-4.	Originator's Initials	Page 2 of 2
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The City notified Contractor of the City's intention to close the project by letter date June 3, 2014.

Council's approval will allow PWE to make all payments due to the Contractor, without any further action or stipulation by the Contractor, and nothing in the ordinance shall be deemed to be an acceptance of Contractor's work or a waiver of any claims the City may have under Contract.

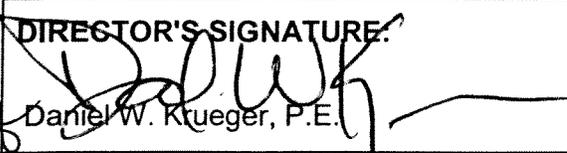
M/WBE PARTICIPATION: The M/WBE goal established for this project was 17%. According to Office of Business Opportunity, the participation was 22.71%. Contractor's M/WBE performance evaluation was rated Outstanding.

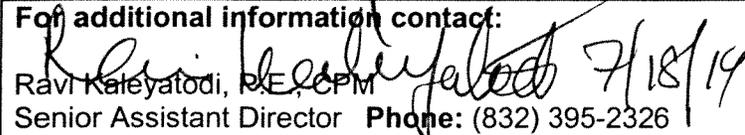


DWK:DRM:JTM:PK:MZ:ha
H:\E&C Construction\East Sector\PROJECTS\N-000377-0001-4 NSR 445\Closeout\RCA\RCA - Closeout with LDs.doc

SUBJECT: First Amendment to Agreement for Research Services between the City of Houston and William Marsh Rice University for White Oak Bayou Cottage Grove Subdivision Low Impact Development Demonstration Project. WBS No. M-000297-0001-3	Page 1 of 2	Agenda Item # 21
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FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7/24/14	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E.	Council District affected: C
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For additional information contact:  Ravi Kaleyatodi, P.E., CPM Senior Assistant Director Phone: (832) 395-2326	Date and identification of prior authorizing Council action: Ordinance No. 2012-0249; 03-28-12
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RECOMMENDATION: (Summary)

Approve First Amendment to the Agreement between the City of Houston and William Marsh Rice University.

Amount and Source of Funding: N/A

PROJECT NOTICE/JUSTIFICATION: This project is part of the Storm Drainage Capital Improvement Plan (CIP) and is the implementation of a pilot project using leveraged partnerships to develop local data for future efforts under the Municipal Separate Storm Sewer System Permit and Total Maximum Daily Load limitations.

PREVIOUS HISTORY DESCRIPTION/SCOPE: The Environmental Protection Agency's Nonpoint Source Management Program agreed to grant the City of Houston up to \$455,665.00 (reimburse 60% of the authorized budget) for design, construction, and monitoring of the White Oak Bayou Low Impact Development pilot project. Texas Commission on Environmental Quality is the administrator for this grant and has entered into an Agreement with the City. The City Council approved the Agreement on May 5, 2010, Ordinance No. 2010-0353.

Unlike traditional drainage infrastructure that relies on concrete pipe, Low Impact Development designs use natural features, pervious pavement or engineered swales covered with vegetation to contain and manage runoff. This project will be installed in a two-block segment. Data will be collected and evaluated to determine the effectiveness of the installed design, particularly in regard to pollutant load reductions and water quality. The maintenance feasibility, life cycle costs, neighborhood impacts and public acceptance will be evaluated to determine if a broad application in public construction and private development is feasible.

LTS No. 12762 CUIC ID #20JV01

Finance Department:	Other Authorization:	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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Date

SUBJECT: First Amendment to Agreement for Research Services between the City of Houston and William Marsh Rice University for White Oak Bayou Cottage Grove Subdivision Low Impact Development Demonstration Project.
WBS No. M-000297-0001-3

Originator's Initials

JV

Page
2 of 2

PREVIOUS HISTORY DESCRIPTION/SCOPE CONTINUED: The City Council approved the original Agreement with Rice University on March 28, 2012, Ordinance No. 2012-0249. Rice University is part of the original Texas Commission on Environmental Quality Grant application to conduct the pre-construction and post-construction monitoring and collection to determine the effectiveness of the installed features on storm water quality.

LOCATION: This project is along Darling Street, generally bound by T.C. Jester on the west, Reinerman Street on the east, Petty Street on the north and Larkin Street on the south. The project is located in Key Map Grid 492C.

SCOPE OF THIS AMENDMENT AND FEE: The scope of the First Amendment extends the expiration date of the Agreement to December 31, 2014, to complete the data collection and performance evaluation. There is no fee associated with this First Amendment.

ACTION RECOMMENDED: It is recommended that City Council approves a First Amendment to the Agreement between the City of Houston and William Marsh Rice University.

DWK:DRM:RK:DPS:CH:JV:klw

H:\design\STORM WATER ENGINEERING\SECTION\00 - PROJECTS\Cottage Grove LID (M-0297-1) - D11_C12\1.0 RICE U AGREEMENT\Amendment 1\RCA Amend#1R 20JV01.doc

c: Files:M-000297-0001-3 (RCA 1.2)

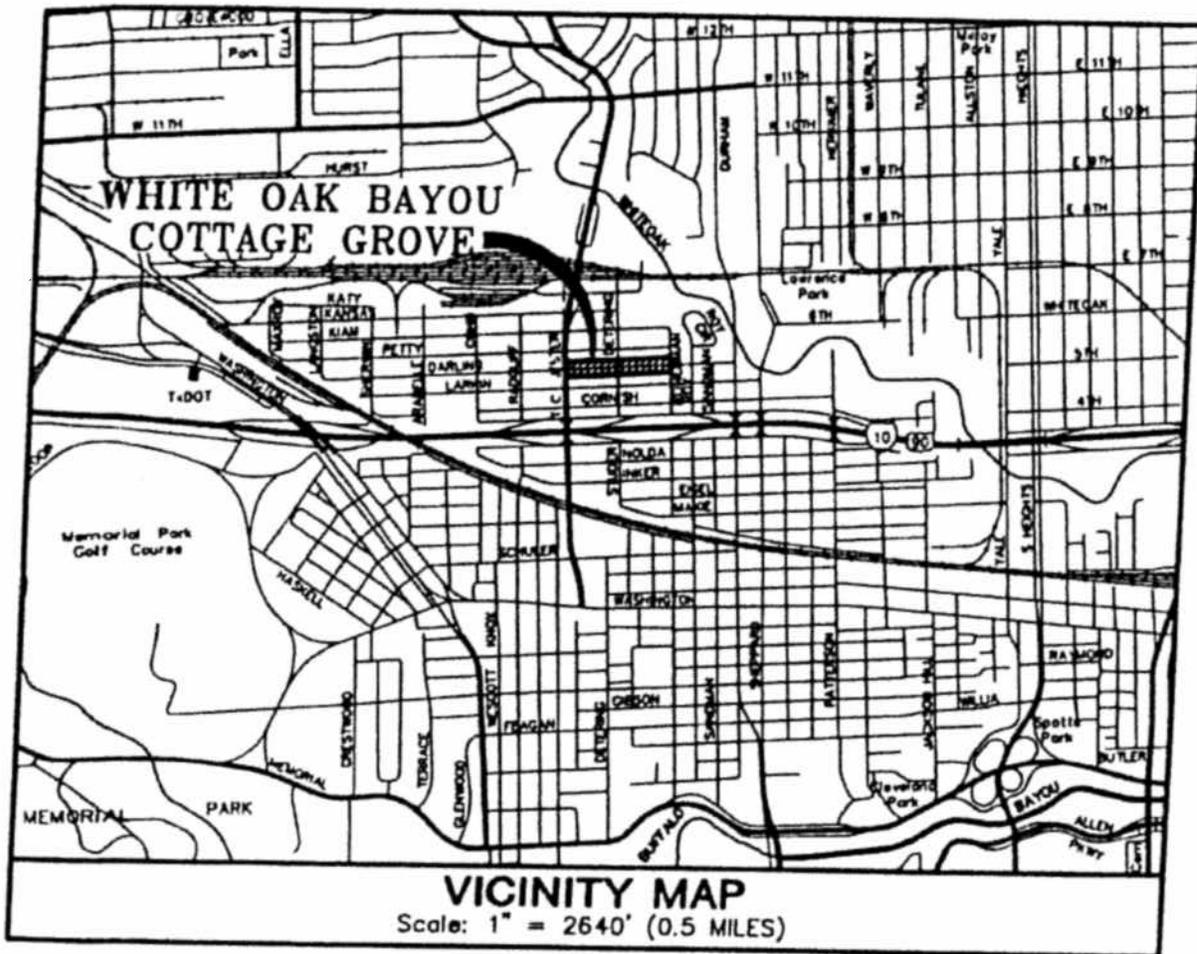
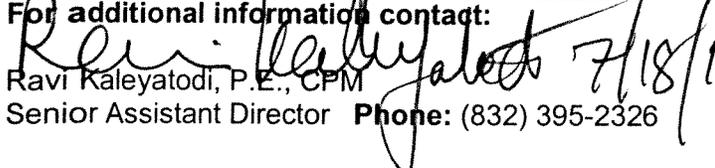


EXHIBIT 1
White Oak Bayou/Cottage Grove
Subdivision LID Project
M-0286
WBS NO. M-000297-0001-3
 Council District "C"
 JULY 2014

SUBJECT: Fourth Amendment to the Agreement between the City of Houston and Texas Commission on Environmental Quality for Reimbursement for Design and Construction of a Pilot Project to Develop Local Data for Storm Water Quality Best Management Practices WBS No. M-000297-0001-3	Page 1 of <u>2</u>	Agenda Item # 220
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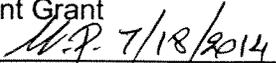
FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7/24/14	Agenda Date JUL 30 2014
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DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E.	Council District affected: C 
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For additional information contact:  Ravi Kaleyatodi, P.E., CPM Senior Assistant Director Phone: (832) 395-2326	Date and identification of prior authorizing Council action: Ordinance No. 2010-0353; 05-05-10 Ordinance No. 2011-1191; 12-21-11 Ordinance No. 2013-0325; 04-17-13 Ordinance No. 2013-1134; 12-11-13
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RECOMMENDATION: (Summary)

Approve The Fourth Amendment to the Agreement between the City of Houston and Texas Commission on Environmental Quality to receive additional funds for reimbursement for design and construction.

Amount and Source of Funding: Additional revenue of \$11,281.00 TCEQ Reimbursement Grant 

PROJECT NOTICE/JUSTIFICATION: This project is part of the Storm Drainage Capital Improvement Plan (CIP) and is the implementation of a pilot project using leveraged partnerships to develop local data for future efforts under the Municipal Separate Storm Sewer System Permit and Total Maximum Daily Load limitations.

PREVIOUS HISTORY DESCRIPTION/SCOPE: The Environmental Protection Agency's Nonpoint Source Management Program agreed to grant the City of Houston up to \$455,665.00 (reimburse 60% of the authorized budget) for design, construction, and monitoring of the White Oak Bayou Low Impact Development pilot project. Texas Commission on Environmental Quality is the administrator for this grant and has entered into an Agreement with the City.

By the agreement, the City will use the proposed grant funds to implement the project and to measure pollutant load reductions resulting from a Low Impact Development drainage pilot project in Cottage Grove Subdivision.

Unlike traditional drainage infrastructure that relies on concrete pipe, Low Impact Development designs use natural features, pervious pavement or engineered swales covered with vegetation to contain and manage runoff. This project will be installed in a two-block segment. Data will be collected and evaluated to determine the effectiveness of the installed design, particularly in regard to pollutant load reductions and water quality.

LTS No. 12717 CUIC ID #20CH29

Finance Department:	Other Authorization:	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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Date	Subject: Fourth Amendment to the Agreement between the City of Houston and Texas Commission on Environmental Quality for Reimbursement for Design and Construction of a Pilot Project to Develop Local Data for Storm Water Quality Best Management Practices WBS No. M-000297-0001-3	Originator's Initials dld	Page <u>2</u> of <u>2</u>
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PREVIOUS HISTORY DESCRIPTION/SCOPE CONTINUED: The maintenance feasibility, life cycle costs, neighborhood impacts and public acceptance will be evaluated to determine if a broad application in public construction and private development is feasible.

The City Council approved the original Agreement by Ordinance 2010-0353 on May 5, 2010. The First Amendment was approved by Ordinance 2011-1191 on December 21, 2011 for the purpose of revising the Schedule of Deliverables and extending the expiration date of this agreement. The Second Amendment was approved by Ordinance 2013-0325 on April 17, 2013 for the purpose of revising the Schedule of Deliverables and extending the expiration date of this agreement. The Third Amendment was approved by Ordinance 2013-1134 on December 11, 2013 for the purpose of revising the Schedule of Deliverables and extending the expiration date.

The Department will be supported in the pilot project by services rendered by Jones & Carter, Inc. for design and construction phase engineering, by Rice University for the pre-construction and post-construction monitoring to determine the effectiveness of the installed features on storm water quality.

LOCATION: This project is along Darling Street, generally bound by T.C. Jester on the west, Reinerman Street on the east, Petty Street on the north and Larkin Street on the south. The project is located in Key Map Grid 492C.

SCOPE OF THIS AMENDMENT AND FEE: The scope of the Fourth Amendment increases the Texas Commission on Environmental Quality Grant reimbursement from \$455,665.00 to \$466,946.00. The additional funds may be used for costs incurred as of June 17, 2014 in order to comply with the schedule of work and expiration date of the contract.

ACTION RECOMMENDED: It is recommended that City Council approves a Fourth Amendment to the Agreement between the City of Houston and Texas Commission on Environmental Quality to receive additional funds for reimbursement for design and construction.


DWK:DRM:RK:DPS:CH:klw

H:\design\STORM WATER ENGINEERING\SECTION\00 - PROJECTS\Cottage Grove LID (M-0297-1) - D11_C12\1.0 TCEQ AGREEMENT\Amendment #4\RCA Amend#4 .doc

c: Files:M-000297-0001-3 (RCA 1.2)

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #

SUBJECT:
Ordinances granting Commercial Solid Waste Operator Franchises

Category #

Page 1 of 1

Agenda Item#

23 20 35

FROM: (Department or other point of origin):

Tina Paez, Director
Administration & Regulatory Affairs

Origination Date

7/2/2014

Agenda Date

~~JUL 16 2014~~

DIRECTOR'S SIGNATURE:

[Handwritten Signature]

Council Districts affected:

~~JUL 28 2014~~

ALL JUL 30 2014

For additional information contact:

Juan Olguin JFO Phone: (832) 393- 8528
Naelah Yahya Phone: (832) 393- 8530

Date and identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve ordinances granting Commercial Solid Waste Operator Franchise

Amount of Funding:

REVENUE

FIN Budget:

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

SPECIFIC EXPLANATION:

It is recommended that City Council approve ordinances granting Commercial Solid Waste Operator Franchise to the following solid waste operator pursuant to Article VI, Chapter 39. The proposed Franchise is:

1. Pedro Cordova DBA Pedro Cordova Co.

The proposed ordinance grant the Franchise the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to 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 term is 10 years from the effective date.

The Pay or Play Program does not apply to the solid waste franchises.

REQUIRED AUTHORIZATION

Finance Director:

24
JUL 30 2014

REVIEW on the record and make determination relative to the appeal to the City of Houston from a vote by the Houston Planning Commission to uphold the decision of the Houston Archaeological and Historical Commission's denial of a certificate of appropriateness to relocate a structure at 1815 Cortlandt Street (Historic District: Houston Heights East), filed by Timothy Kirwin, Attorney at Law, on behalf of Jeremy McFarland, Brick Moon Design (Applicant) for Laura Menafee (Owner)
DISTRICT I - GALLEGOS

See BACK up FOR
TRANSCRIPT of
RECORD FOR
ITEM 24

NOTICE OF APPEAL TO THE CITY COUNCIL OF THE CITY OF HOUSTON FROM A VOTE BY THE HOUSTON PLANNING COMMISSION TO UPHOLD THE HOUSTON ARCHEOLOGICAL AND HISTORICAL COMMISSION'S DENIAL OF A CERTIFICATE OF APPROPRIATENESS TO RELOCATE A STRUCTURE AT 1815 CORTLANDT STREET (HISTORIC DISTRICT: HOUSTON HEIGHTS EAST).

To: Anna Russell, City Secretary, City of Houston

From: Jeremy McFarland, Brick Moon Design (Applicant) for Laura Menafee (Owner)

Drafted by: Timothy Kirwin, representative of Applicant and Owner



Re: Appeal Notice and written special exceptions

Date: July 7, 2014

Per Rule 12 of Section 2-2 of the City of Houston's Code of Ordinances, Applicant and Owner file this Notice of Appeal to the City Council of the City of Houston from a vote by the Planning Commission to uphold the Houston Archeological and Historical Commission's denial of a Certificate of Appropriateness to relocate a structure at 1815 Cortlandt Street.

Whereas, the Houston Archeological and Historical Commission denied a Certificate of Appropriateness to relocate a structure from 1815 Cortlandt Street on April 24, 2014; and

Whereas, the Houston Planning Commission upheld the decision of the Houston Archeological and Historical Commission's denial of a Certificate of Appropriateness on May 15, 2014; and

Whereas, Applicant and Owner may appeal such decision of the Planning Commission to the Houston City Council; and

Whereas, Applicant and Owner may provide for written special exceptions as part of this appeal;

Now Therefore,

1. Applicant and Owner file this appeal to the Houston City Council. Attached is a transcript from the certified court reporter that was in attendance at the May 15, 2014, Planning Commission meeting. Attached to this appeal also is the Appeal and Appeal supplement filed by Applicant and Owner to the Planning Commission. Clean copies of documents used by Applicant and Owner at the hearing are also attached.

2. Written special exceptions: Rule 12 of Section 2-2 of the City of Houston Code of Ordinances provides in pertinent part as follows:

“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.”

SPECIAL EXCEPTIONS:

1. The Houston Archeological and Historical Commission (HAHC) failed to comply with the Ordinance by not taking into “consideration the current needs of the applicant and shall be sensitive to the property owner's financial condition in determining whether to issue a certificate of appropriateness.” The HAHC failed to address this requirement in the Ordinance. The adopted report does not contain information that this required step occurred. The financial effects of such denials are being felt by my client. HAHC was required to undertake this analysis and failed to do so.

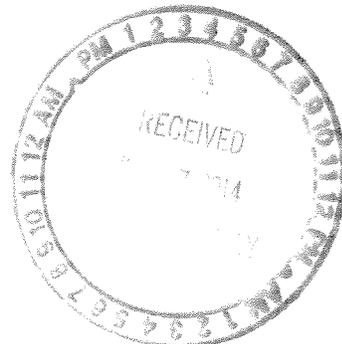
2. At the hearing before the Planning Commission, staff misinterpreted the law. Staff stated that in order to move a house out of a historic district, it must qualify for landmark status. This is not the law. Section 33-243(a)(1)(a) does not require any protection to move a contributing structure out of a historic district. The Applicant and Owner must show the house has independent historical significance from its current location that will not be diminished with relocation. The fact that the house was built elsewhere and spent 30 years at another location gives the house independent historical significance. It was moved once, it can be moved again.

3. At the hearing before the Planning Commission, staff misinterpreted the law. Staff stated that the block to which a house is to be moved must be compatible with the historical and architectural character of the contributing structure. This is not the law. Section 33-243(a)(1)(c) provides that the area to which a house is to be moved must be compatible with the historical and architectural character of the contributing structure. The HAHC states in its adopted report that the area is compatible and staff concurred.

4. At the hearing before the Planning Commission, staff misinterpreted the law. Staff stated that moving the structure will diminish the

integrity of the historic district. This is not the law. Section 33-243(a)(1)(d) provides that a house can be moved if it does not “significantly” diminish the integrity of the historic district. The HAHC’s report does not use the word “significantly” when providing justification for denial under this criteria. Anything removed from a District will diminish the District. That is not the standard. The standard is that the removal will “significantly” diminish the integrity of the District. The entire exterior envelope of the house has been modified with little if any remaining historic material. Moving this structure out of the District will not significantly diminish the integrity of the District.

We ask City Council to reverse the Planning Commission’s decision to uphold the HAHC’s denial of a Certificate of Appropriateness and allow this house to be moved out of the District.





Memorial City Plaza II
820 Gessner, Suite 1570
Houston, TX 77024-4494

May 2, 2014

Mr. Patrick Walsh, Director
Planning and Development Department
611 Walker Street, 6th Floor
Houston, Texas 77002

*Via email: planningdepartment@houstontx.gov
Via hand delivery*

**Re: Notice of appeal to the City of Houston Planning Commission; 1815 & 1817 Cortlandt Street.
Our File No.: 5237-1**

Dear Mr. Walsh,

Please accept the enclosed notices of appeal to the City of Houston Planning Commission for the properties located at 1815 and 1817 Cortlandt Street.

Very truly yours,

RANDLE LAW OFFICE LTD., L.L.P.

A handwritten signature in cursive script that reads "Timothy B. Kirwin".

Timothy B. Kirwin

/tbk
Enclosures (as stated)

cc: City of Houston City Secretary
900 Bagby, Public Level
Houston, Texas 77002
(via hand delivery)

T 281-657-2000

F 832-476-9554

www.jgradyrandlepc.com

NOTICE OF APPEAL TO THE CITY OF HOUSTON PLANNING
COMMISSION FROM A DENIAL OF A CERTIFICATE OF
APPROPRIATENESS TO RELOCATE A STRUCTURE AT 1815
CORTLANDT STREET (HISTORIC DISTRICT: HOUSTON
HEIGHTS EAST) BY THE HOUSTON ARCHEOLOGICAL AND
HISTORICAL COMMISSION ON APRIL 24, 2014.

*Sent via email to Patrick.walsh@houstontx.gov and
Personal delivery to: 611 Walker St, 6th Floor, Houston, TX 77002*

To: Patrick Walsh, Director, Department of Planning and Development, City of Houston

From: Jeremy McFarland, Brick Moon Design (Applicant) for Laura Menafee (Owner)

Drafted by: Timothy Kirwin, Attorney for Applicant and Owner

Re: Appeal Notice

Date: May 2, 2014

Per Section 33-253 of the City of Houston's Code of Ordinances, Applicant and Owner file this Notice of Appeal to the City of Houston Planning Commission from a denial of a Certificate of Appropriateness to relocate a structure at 1815 Cortlandt Street by the Houston Archeological and Historical Commission on April 24, 2014.

Grounds for appeal:

1. At the time of filing this appeal, Applicant has not been provided with the HAHC findings regarding denial of the certificate of appropriateness as required by law despite repeated attempts to secure such information.

HAHC is required by law to make certain findings when it denies a certificate of appropriateness. Section 33-240 of the City of Houston Code of Ordinances provides in pertinent part that "[t]o approve or disapprove an application for a certificate of appropriateness, the HAHC shall consider and make findings with respect to the relationship between the proposed activity and the applicable criteria. The HAHC shall take into consideration the current needs of the applicant and shall be sensitive to the property owner's financial condition in determining whether to issue a certificate of appropriateness."

An Open Records Request was submitted to the City asking for a copy of the HAHC findings. See email attached. I also wrote Diane DuCroz asking her to provide a

copy of such findings so that I could articulate the grounds for this appeal. See email attached. Moreover, I telephoned the City's preservation office on three (3) occasions in an attempt to secure these HAHC findings. The staff member who was working with applicant, Ms. Harris-Finch, did not return my call. I called the next day and her voice mail had changed to state she was out of town. I called back and left a voice mail with the staff. I did receive a call back but was told that I needed to submit questions regarding the appeal to Diane DuCroz. When I did not get a response to my email to Ms. DuCroz, I telephoned her the next morning at approximately 9:30 a.m. I was told she was in a meeting and would call me back. I explained that I needed the HAHC findings in order to draft an appeal.

I did receive a document at 2:30 p.m. from the planning department which was a copy of a portion of the staff report which stated "Denied" next to HAHC Action, but again, provided no findings as to why the HAHC denied the Certificate of Appropriateness as required by law. See email attached.

I also asked when the HAHC meeting video would be available to view on the City's website as it had been over a week and other meetings which occurred as early as the day before were uploaded and available to view. Staff did not know why such meeting was not available.

Finally, a request for the complete staff report was made to the City, but has not been furnished at this time.

Therefore, because no findings have been provided by the City, I can only assume that no findings exist and thus HAHC failed to comply with the law to provide the Applicant with findings as to why the HAHC denied the Certificate of Appropriateness for 1815 Cortlandt Street.

Therefore, we ask this Commission to reverse such denial and grant the Certificate of Appropriateness to relocate the house at 1815 Cortlandt Street because the HAHC failed to follow the procedures as set forth in the City's Code of Ordinances and deprived the Applicant of the required notice of such denial.

2. In the alternative, if this Commission declines to issue the Certificate of Appropriateness based on the grounds articulated above, we must speculate as to why the HAHC might have denied the Certificate of Appropriateness to relocate the house at 1815 Cortlandt Street.

Section 33-243 of the City of Houston Code of Ordinances provides as follows:

"(a) The HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, or contributing structure

upon finding that the application satisfies one or more of the following criteria:

- (1) The landmark, protected landmark, or contributing structure:
 - a. Has architectural or historical value independent of its physical location that will not be diminished with relocation;
 - b. Can be moved without significant damage to its physical integrity;
 - c. Will be relocated to an area that is compatible with the historical and architectural character of the landmark, protected landmark, or contributing structure; and
 - d. If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.
 - (2) The relocation is necessary to protect the landmark, protected landmark, or contributing structure from demolition resulting from a public improvement project;
 - (3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-247(c) of this Code; or
 - (4) The applicant has established unusual or compelling circumstances pursuant to section 33-247(d) of this Code.
- (b) Alternatively, the HAHC shall issue a certificate of appropriateness for relocation if relocation of the landmark, protected landmark, or contributing structure has been identified as an alternative to demolition pursuant to section 33-247(f) of this Code.”

This house was not original to the location of 1815 Cortlandt Street, but was moved to this location in the 1970s. The information contained in District's designation contained factual errors regarding the date this structure was built. Because the house was not built on the lot which it sits now and was built far later than indicated by the District's designation, the house is not forever tied to 1815 Cortlandt. The house resided outside the District for thirty years and the historic value of the house is not solely associated with the District. Applicant proposes to move the house to the Denver Harbor area of Houston as this area has homes consistent with the age and architectural style of this house. Even staff acknowledges in the staff report that the house fits the style found in Denver Harbor.

Next, staff states that removal will diminish the historic value of the District. Under this criteria, no structure would ever be approved for removal because each removal would diminish the inventory rendering it impossible to overcome this criteria.

Moreover, Applicant plans to construct a new house at 1815 Cortlandt Street that reflects the architecture of the Houston Heights Historical District as evidenced by other homes designed by Brick Moon Design. The

Applicant will be required to have any building plans approved by the HAHC; therefore, this Commission has a guarantee that the Applicant cannot build just any style of house but must conform to the design of houses in the District as set forth by City ordinances and as approved by the HAHC.

Based on satisfying Section 33-243 of the City's Code of Ordinances, this portion of the law, we ask that the Planning Commission reverse the denial of a Certificate of Appropriateness for 1815 Cortland Street and allow the house to be relocated.

Given the City's failure to timely respond to our request for information relating to this appeal, applicant reserve the right to amend this Appeal Notice within the time allowed.

Timothy Kirwin

From: Timothy Kirwin
Sent: Friday, April 25, 2014 2:15 PM
To: 'patricia.benavides@houstontx.gov'
Cc: Chris Nichols
Subject: Open Records Request

Importance: High

Please consider this an Open Records Request under the Texas Public Information Act for the findings of the Houston Archeological and Historical Commission findings relating to the denial of certificates of appropriateness at their April 2014 meeting

relating to or pertaining to 1815 Cortlandt and 1817 Cortlandt.

If you have any questions, please give me a telephone call at the number below.

Timothy B. Kirwin
Randle Law Office Ltd., L.L.P.
Memorial Plaza II
820 Gessner, Suite 1570
Houston, Texas 77024
(281) 657-2000- Telephone
(832) 476-9554- Facsimile
[Email](#) | [Profile](#) | [Website](#) | [V-Card](#)



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3
4
Timothy Kirwin

From: Timothy Kirwin
Sent: Thursday, May 01, 2014 4:16 PM
To: diana.duCroz@houstontx.gov
Subject: Appeal questions.

Ms. DuCroz. I will be filing an appeal to the planning commission regarding 1815 and 1817 Courtland denials of certificate of appropriateness' of the HAHC.

I want to make sure I comply with the city's appeal procedures.

1. The deadline to appeal is tomorrow, but I have not received a copy of the findings of the HAHC. I placed an open records request but have not heard back. It will be difficult to state the grounds for the appeal without the HAHC reasons for such denials. Can you assist with providing a copy of the findings?

2. We would like to make the May 15 planning meeting date. Do we need to place signs on the property like we did for the HAHC meeting? If the appeal is submitted tomorrow, do you see any reason we would not be heard at the next regular planning commission meeting?

Thank you. If you need more information, please give me at call at 281-657-2000.

Tim Kirwin.
Attorney for owner
Randle Law Office
820 Gessner, Suite 1570
Houston, TX 77024

Timothy Kirwin

From: Benavides, Patricia - PD <Patricia.Benavides@houstontx.gov>
Sent: Friday, May 02, 2014 2:34 PM
To: Timothy Kirwin
Subject: Open Records Request
Attachments: Iiq_1815_Cortlandt_Relocation_ACTION - Copy.pdf; Iir_1817_Cortlandt_Addition_ACTION - Copy.pdf

Please see the attached documents pertaining to your open records request dated April 25 regarding the denial of the COA for 1815 Courtlandt and 1817 Cortlandt.

If you have any questions, please let me know.

Thank!

Patricia A. Benavides

City of Houston Planning & Development Department, Public Information Office

611 Walker, 6th Floor, Houston, Texas 77002, (713) 837-7715

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PLATTRACKER

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1815 CORTLANDT STREET

GROUNDS FOR APPEAL

NO. 1

**PROCEDURAL
DEFECTS**

Section 33-240 of the City of Houston Code of Ordinances provides in pertinent part that “[t]o approve or disapprove an application for a certificate of appropriateness, the HAHC shall consider and make findings with respect to the relationship between the proposed activity and the applicable criteria.”

-The HAHC did not make any findings, but instead simply rubber stamped a staff report. One Commission member began to make findings when he stated why he thought the Certificate of Appropriateness should not be granted; however, a motion was made to adopt the staff report without analyzing “the relationship between the proposed activity and the applicable criteria.”

All you have in front of you is the word “Denied” next to HAHC action.

-Even if the Planning Commission finds that a blanket adoption of the staff report meets the requirements of the Ordinance, there is a second sentence to the Ordinance that states the “HAHC shall take into consideration the current needs of the applicant and shall be sensitive to the property owner’s financial condition in determining whether to issue a certificate of appropriateness.” There is nothing in the record that indicates that the HAHC performed this analysis. These are not just suggestions. This is the adopted law. Since this was not done, the HAHC failed to comply with the Ordinance and we ask this Commission to reverse the denial of the Certificate of Appropriateness.

GROUNDS FOR APPEAL

NO. 2

**Applicant satisfies
 the Ordinance
 criteria.**

City of Houston Ordinance 33-243 set forth the requirements that Applicant can satisfy in order to move the house.

~~“Same—~~Relocation of landmark, protected landmark, or contributing structure.

(a) The HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, or contributing structure upon finding that the application satisfies one or more of the following criteria:

(1) The landmark, protected landmark, or contributing structure:

a. Has architectural or historical value independent of its physical location that will not be diminished with relocation;

b. Can be moved without significant damage to its physical integrity;

c. Will be relocated to an area that is compatible with the historical and architectural character of the landmark, protected landmark, or contributing structure; and

d. If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

(1) a. Has architectural or historical value independent of its physical location that will not be diminished with relocation;

It is undisputed that this house was built elsewhere and moved to its current location almost 30 years after it was built. This house has per se historical value independent of its physical location. It was moved once and can be moved again without diminishing its historical value. The HAHC report merely makes a conclusory statement that there is no independent historical significance and ignores the prior history of this house which was previously located at 502 West 20th Street.

Also, the report states that “no information has been provided to support that the structure would satisfy the landmark criteria to establish independent historic value, or the opportunity for protection if removed from the district.” The Ordinance does not require landmark designation prior to or after removal. Applicant is working with the potential buyer of the house to ensure the house survives. See Exhibit “A.”

APPLICANT SATISFIES THIS CRITERIA.

(1) b. Can be moved without significant damage to its physical integrity;

It is not in dispute that this house can be moved without significant damage to its physical integrity. If you believe that mere adoption of the staff report represents adequate findings, then staff has stated that this element is satisfied.

APPLICANT SATISFIES THIS CRITERIA.

(1) c. Will be relocated to an **area** that is compatible with the historical and architectural character of the landmark, protected landmark, or contributing structure; and

It is not in dispute that this house can be moved to an area that is compatible with the historical and architectural character of the contributing structure. Staff recommended denial of the Certificate of Appropriateness because the proposed block where the house would be moved was not compatible. Staff, however, affirms that the Denver Harbor neighborhood is compatible. There is no requirement under the Ordinance that the house be moved to a historic district. There is no requirement under the Ordinance that the house be moved to a block that is compatible. It is required under the Ordinance that the house be moved into an **area** that is compatible with the historical and architectural character of the contributing structure. Staff affirms such in their report.

APPLICANT SATISFIES THIS CRITERIA.

(1) d. If located in an historic district, can be relocated without **significantly** diminishing the integrity of the historic district in which it is located.

Please pay attention to the highlighted word in the Ordinance. Staff and the HAHC failed to use this word in analyzing whether the house relocation meets this criteria. By ignoring this word, staff and the HAHC place a higher threshold on Applicant in order to relocate the house.

Any removal from the District could, in theory, diminish the integrity of the historic district, but that is not the standard. The removal must **significantly** diminish the integrity. Here, the

house does not have original roof, windows, doors, siding, entrance, or foundation. See Exhibit "B."

We do not believe that staff nor HAHC applied the proper standard when evaluating this criteria, but even if this Commission does believe the proper criteria was applied, this house can be moved without significantly diminishing the integrity of the District. As noted above, this house was not original to the District, and there is almost nothing original as to the exterior envelope of the house.

**WE ASK THE COMMISSION TO REVERSE THE DENIAL OF A
CERTIFICATE OF APPROPRIATENESS FOR 1815
CORTLANDT.**

February 12, 2014

Dear HAHC,

My Name is David Alvarez and I am writing today to acknowledge that I am the property owner of the lot at 1026 Lathrop Street in the historic Denver Harbor neighborhood of Houston. I am very interested in moving the existing home at 1815 Cortlandt Street to my lot on Lathrop. Laura Menefee has been kind enough to donate the house to me with the intention of moving it to my property and my goal is to maintain the current architectural characteristics, shape and historical integrity of the home. Interestingly, this house is very similar in shape and size as many other homes in my neighborhood, therefore it will fit in very nicely.

I was not able to be here today, but I wanted to be sure that my voice was heard in this matter and I am hopeful to be able to move this home to my property.

Best Regards,



David Alvarez

HARRIS COUNTY APPRAISAL DISTRICT
REAL PROPERTY ACCOUNT INFORMATION
0120260000034

Tax Year: 2013

 Print

Owner and Property Information			
Owner Name & Mailing Address:	ALVAREZ DAVID 9845 SHADY LN HOUSTON TX 77093-5540	Legal Description:	LTS 34 35 & 36 BLK 24 DENVER
		Property Address:	1026 LATHROP ST HOUSTON TX 77020

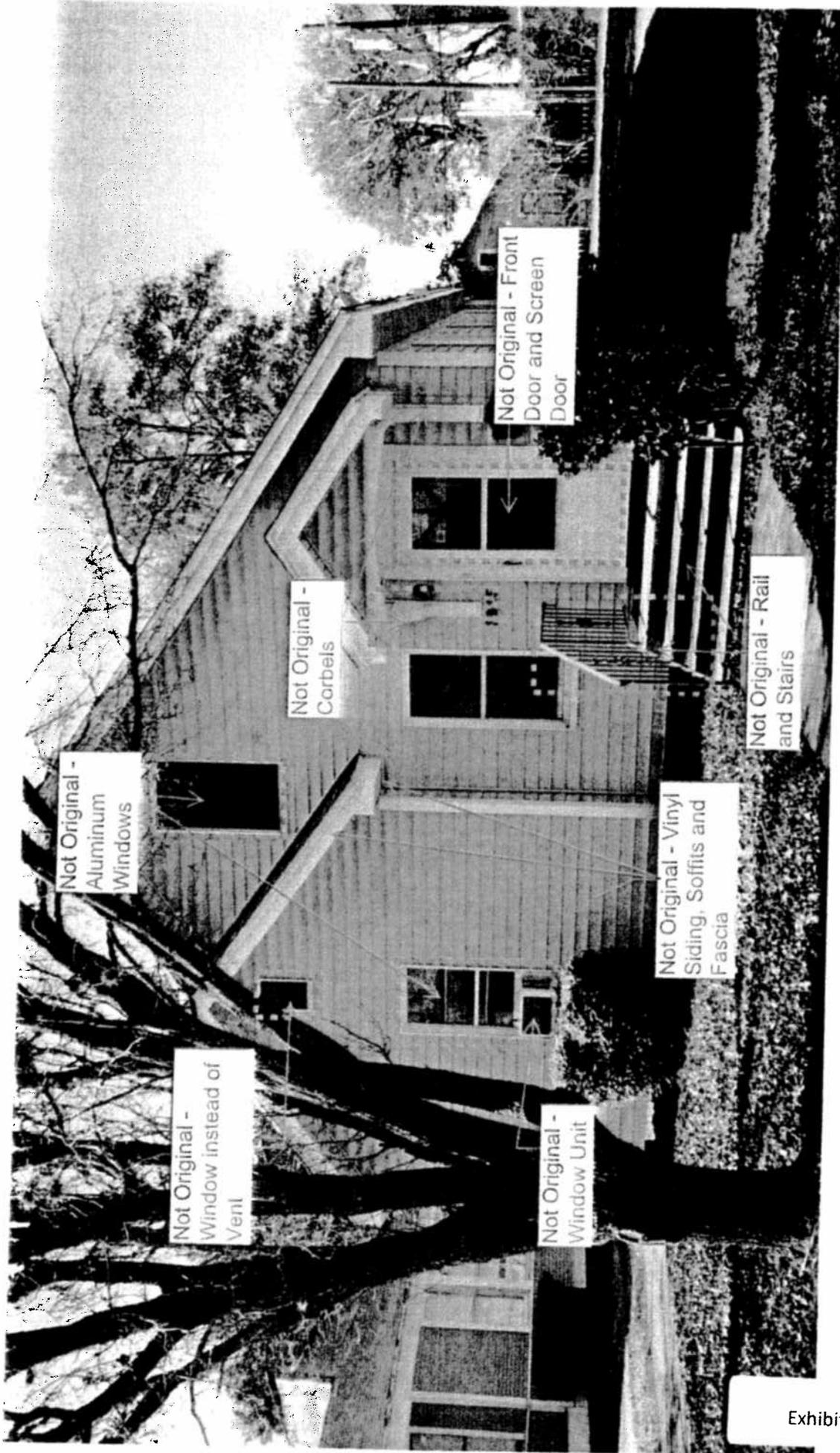
State Class Code				Land Use Code		
C1 -- Real, Vacant Lots/Tracts (In City)				1000 -- Residential Vacant		
Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map®
9,375 SF	0 SF	7112	1419	142 -- 1D North of Bayou	5558D	494H

Value Status Information			
Capped Account	Value Status	Notice Date	Shared CAD
No	Noticed	03/29/2013	No

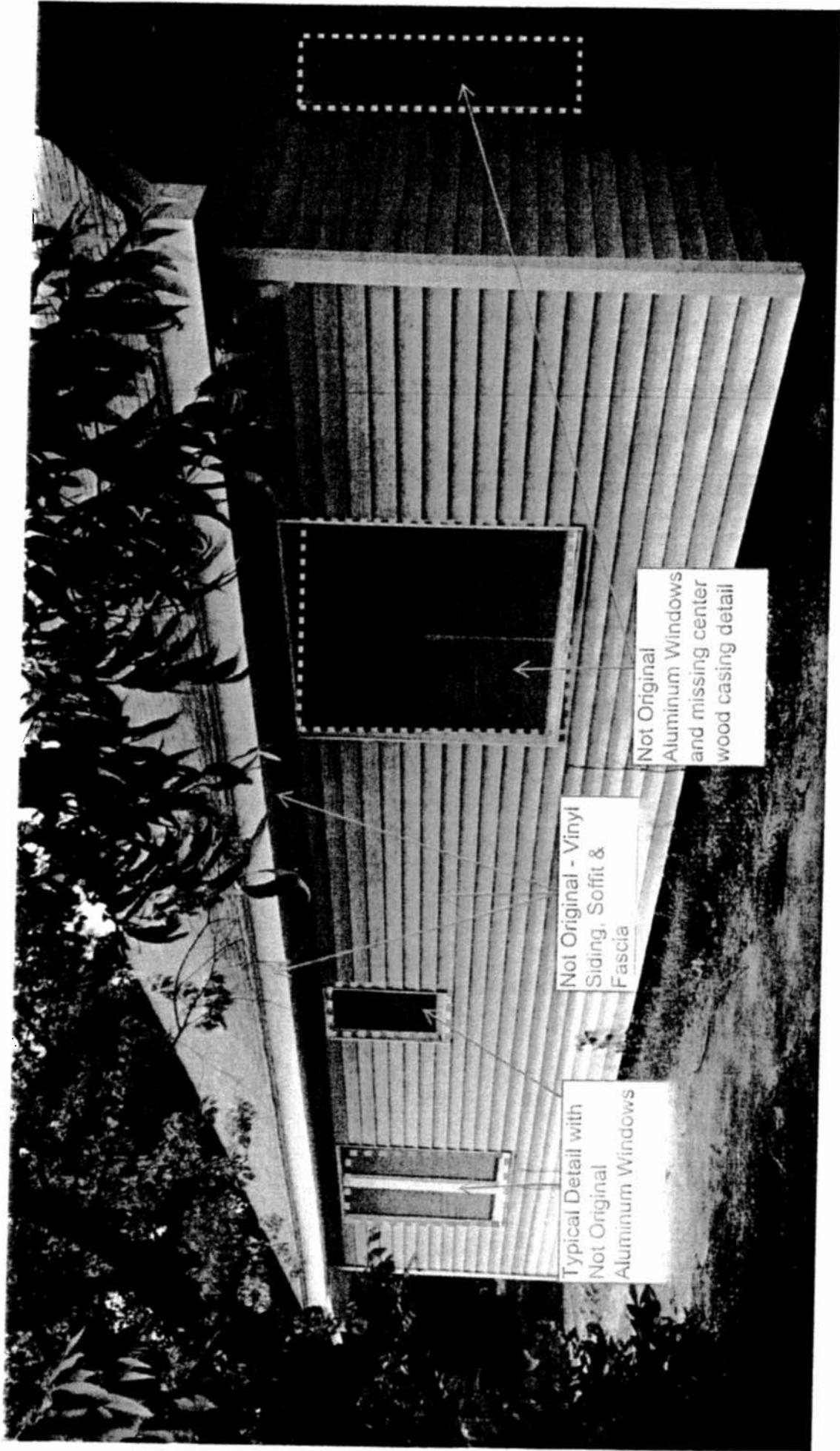
Exemptions and Jurisdictions					
Exemption Type	Districts	Jurisdictions	ARB Status	2012 Rate	2013 Rate
None	001	HOUSTON ISD	Certified: 08/09/2013	1.156700	1.186700
	040	HARRIS COUNTY	Certified: 08/09/2013	0.400210	0.414550
	041	HARRIS CO FLOOD CNTRL	Certified: 08/09/2013	0.028090	0.028270
	042	PORT OF HOUSTON AUTHY	Certified: 08/09/2013	0.019520	0.017160
	043	HARRIS CO HOSP DIST	Certified: 08/09/2013	0.182160	0.170000
	044	HARRIS CO EDUC DEPT	Certified: 08/09/2013	0.006617	0.006358
	048	HOU COMMUNITY COLLEGE	Certified: 08/09/2013	0.097173	0.097173
	061	CITY OF HOUSTON	Certified: 08/09/2013	0.638750	0.638750

Valuations				
Value as of January 1, 2012		Value as of January 1, 2013		
	Market	Appraised		
Land	31,250		Land	31,250
Improvement	0		Improvement	0
Total	31,250	31,250	Total	31,250

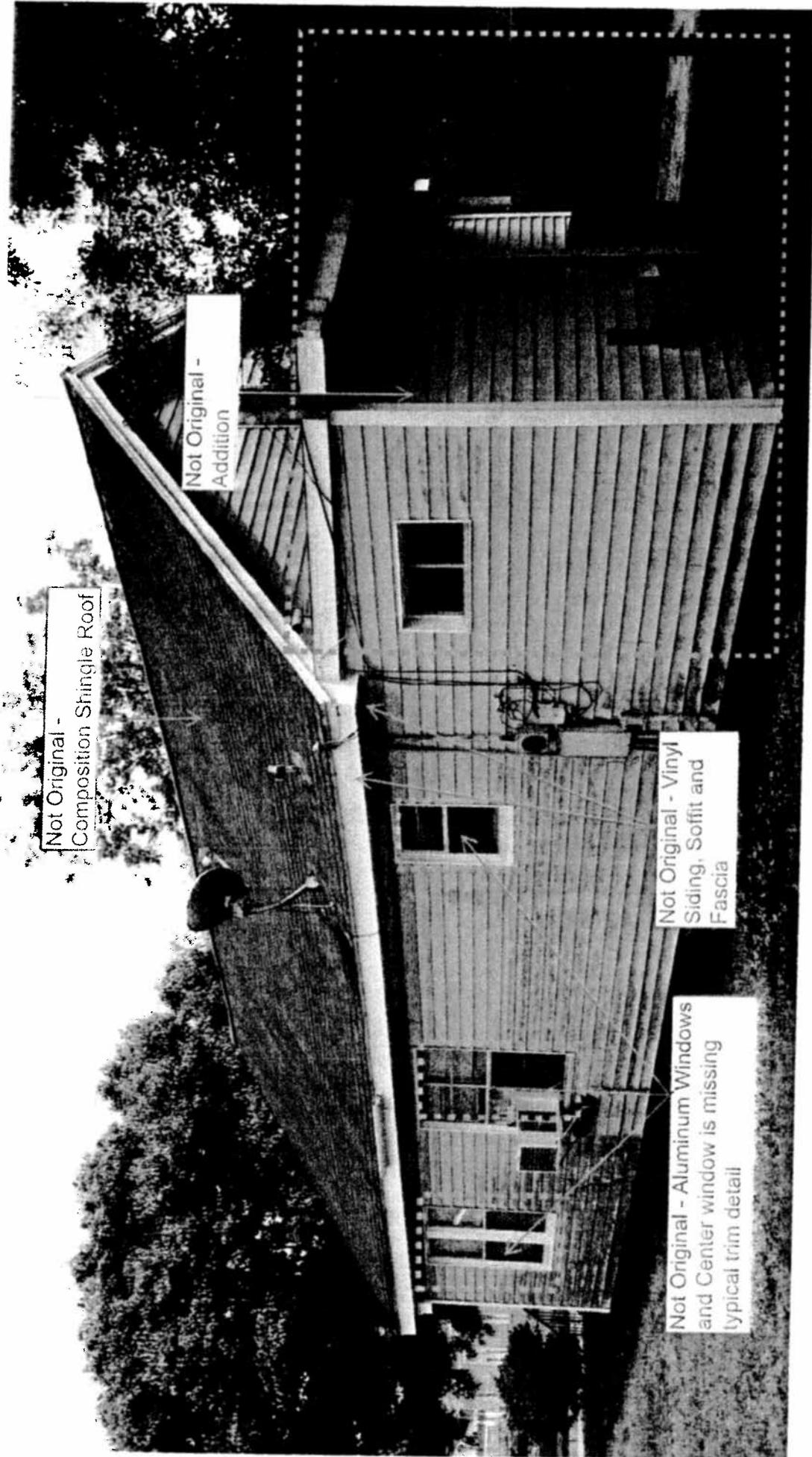
1815 Cortlandt - Existing Structure



1815 Cortlandt - Existing Structure



1815 Cortlandt - Existing Structure



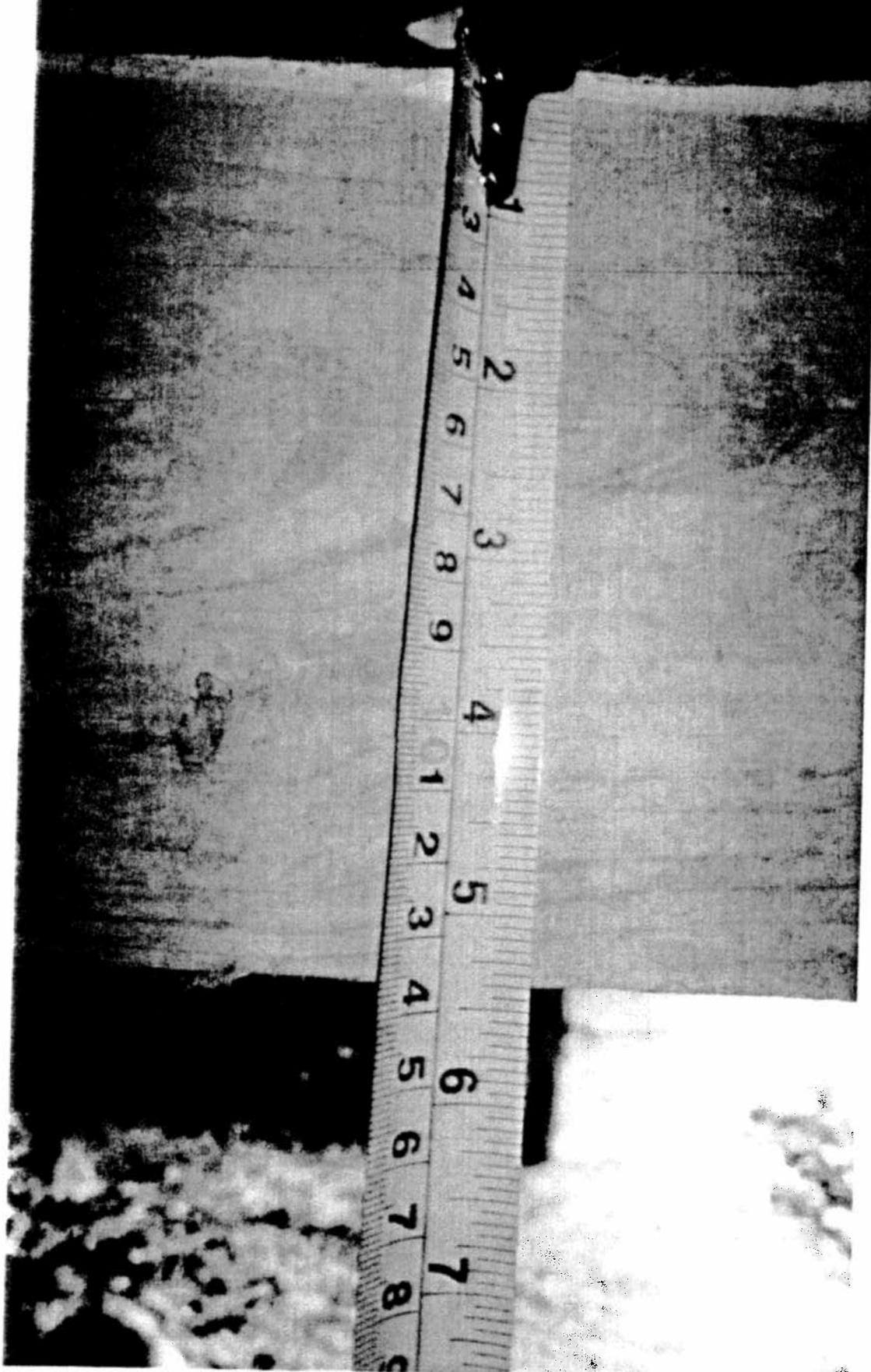
Not Original -
Composition Shingle Roof

Not Original -
Addition

Not Original - Vinyl
Siding, Soffit and
Fascia

Not Original - Aluminum Windows
and Center window is missing
typical trim detail

All Sill Beams have been replaced and are not Original



APPROVAL CRITERIA

RELOCATION OF A LANDMARK, PROTECTED LANDMARK
OR CONTRIBUTING STRUCTURE

Sec. 33-243(a): HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, contributing structure upon finding that the application satisfies **one or more** the following criteria:

S D NA

S - satisfies D - does not satisfy NA - not applicable

(1) The landmark, contributing structure or potentially contributing structure:

(a) Has architectural or historical value independent of its physical location that will not be diminished with relocation;

Evidence does not support that the historic value of the property is not associated with the Houston Heights Historic District East. All current information supports classification of the structure as 'contributing' and as a structure that reinforces the historic significance of the district. No information has been provided to support that the structure would satisfy the landmark criteria to establish independent historic value, or the opportunity for protection if removed from the district.

(b) Can be moved without significant damage to its physical integrity;

The size, structural and foundation systems, and supporting letter from the relocation service company suggests the structure can be moved without significant damage.

(c) Will be relocated to an area that is compatible with the historical and architectural character of the landmark, contributing structure or potentially contributing structure; and

Evidence supports that the structure is compatible with the Denver Harbor residential neighborhood; however, the proposed containing block does not possess a historic or compatible residential character.

(d) If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

Evidence does not support that relocation of the structure will not diminish the Houston Heights Historic District East. The district is significant as a collective whole, the historic character defined by the contributing structures. Contributing structures should not be removed to make way for new construction. A reduction in number of contributing structures dilutes and compromises the historic value of the district.

(2) The relocation is necessary to protect the landmark, contributing structure or potentially contributing structure from demolition resulting from a public improvement project;

(3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-247(c):

(1) That the property is incapable of earning a reasonable return, without regard to whether the return is the most profitable return, including without limitation, whether the costs of maintenance or improvement of the property exceed its fair market value;

(2) That the property cannot be adapted for any other use, whether by the current owner, by a purchaser or by a lessee, that would result in a reasonable return;

(3) That efforts to find a purchaser or lessee interested in acquiring the property and preserving it have failed; and

(4) If the applicant is a nonprofit organization, determination of an unreasonable economic hardship shall instead be based upon whether the denial of a certificate of appropriateness

**CERTIFICATE OF APPROPRIATENESS
APPLICATION SUMMARY**

Applicant: Jeremy McFarland, Brickmoon Design for Laura Menefee, owner

Property: 1815 Cortlandt, tracts 10 and 11a, block 105, Houston Heights Subdivision. The property includes a historic one-story wood frame single-family residence situated on a 7,920 square foot (60' x 132') interior lot.

Significance: Contributing bungalow, constructed 1941, located in the Houston Heights Historic District East.

Proposal: Relocation – Move the contributing residence outside of the Houston Heights East Historic District to 1026 Lathrop Street, lots 34, 35, and 36, block 24. The property is a vacant 9,375 square foot (75'x125') interior lot in the Denver Harbor neighborhood.

Project History:

- December 2013 – A previous applicant requested a demolition COA for the residence disputing the historic value and contributing classification under the unusual or compelling circumstances criterion. The HAHC denied the COA.
- January 9, 2014 – The previous applicant appealed to the Planning Commission who upheld the decision of the HAHC to deny the demolition COA.
- February 13, 2014 – The current applicant requested a relocation COA under the same criterion as the demolition application (unusual and compelling circumstance) disputing the historic value and contributing classification. At the meeting, the applicant presented new materials and requested consideration of the application under criterion (1) instead of criterion (4). The HAHC deferred the item to allow time for proper documentation to be submitted to, and reviewed by, staff.
- March 27, 2014 – The applicant requested a deferral from the HAHC to provide further documentation to establish compliance with the approval criteria, as the documentation provided thus far was found not to meet criteria or support a recommendation of approval.

See staff relocation review and detailed project description on pp. 4-20.

See Attachment A – applicant COA materials on pp. 21.

Public Comment: One in favor, three opposed. See Attachment B.

Civic Association: No comment received.

Recommendation: Denial - does not satisfy criteria

HAHC Action: Denied

APPROVAL CRITERIA

RELOCATION OF A LANDMARK, PROTECTED LANDMARK
OR CONTRIBUTING STRUCTURE

Sec. 33-243(a): HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, contributing structure upon finding that the application satisfies **one or more** the following criteria:

S D NA

S - satisfies D - does not satisfy NA - not applicable

(1) The landmark, contributing structure or potentially contributing structure:

(a) Has architectural or historical value independent of its physical location that will not be diminished with relocation;

Evidence does not support that the historic value of the property is not associated with the Houston Heights Historic District East. All current information supports classification of the structure as 'contributing' and as a structure that reinforces the historic significance of the district. No information has been provided to support that the structure would satisfy the landmark criteria to establish independent historic value, or the opportunity for protection if removed from the district.

(b) Can be moved without significant damage to its physical integrity;

The size, structural and foundation systems, and supporting letter from the relocation service company suggests the structure can be moved without significant damage.

(c) Will be relocated to an area that is compatible with the historical and architectural character of the landmark, contributing structure or potentially contributing structure; and

Evidence supports that the structure is compatible with the Denver Harbor residential neighborhood; however, the proposed containing block does not possess a historic or compatible residential character.

(d) If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

Evidence does not support that relocation of the structure will not diminish the Houston Heights Historic District East. The district is significant as a collective whole, the historic character defined by the contributing structures. Contributing structures should not be removed to make way for new construction. A reduction in number of contributing structures dilutes and compromises the historic value of the district.

(2) The relocation is necessary to protect the landmark, contributing structure or potentially contributing structure from demolition resulting from a public improvement project;

(3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-247(c):

(1) That the property is incapable of earning a reasonable return, without regard to whether the return is the most profitable return, including without limitation, whether the costs of maintenance or improvement of the property exceed its fair market value;

(2) That the property cannot be adapted for any other use, whether by the current owner, by a purchaser or by a lessee, that would result in a reasonable return;

(3) That efforts to find a purchaser or lessee interested in acquiring the property and preserving it have failed; and

(4) If the applicant is a nonprofit organization, determination of an unreasonable economic hardship shall instead be based upon whether the denial of a certificate of appropriateness

financially prevents or seriously interferes with carrying out the mission, purpose, or function of the nonprofit corporation

- (4) The applicant has established unusual or compelling circumstances pursuant to the criteria of section 33-247(d):

(1) That current information does not support the historic or archaeological significance of this building, structure or object or its importance to the integrity of an historic district, if applicable;

All current information supports the structure's historic significance as a Houston Heights, 1940s transitional bungalow. The removal of the original materials and 1970s relocation do not support a non-contributing classification. The architectural character and construction date are compatible with, and contribute to, the Houston Heights Historic District East.

(2) Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans have on the architectural, cultural, historical or archaeological character of the surrounding area; and

Future plans to construct a new single-family residence on the property have been indicated. Further information regarding the new construction has not provided.

(3) Whether reasonable measures can be taken to save the building, structure or object from further deterioration, collapse, arson, vandalism or neglect.

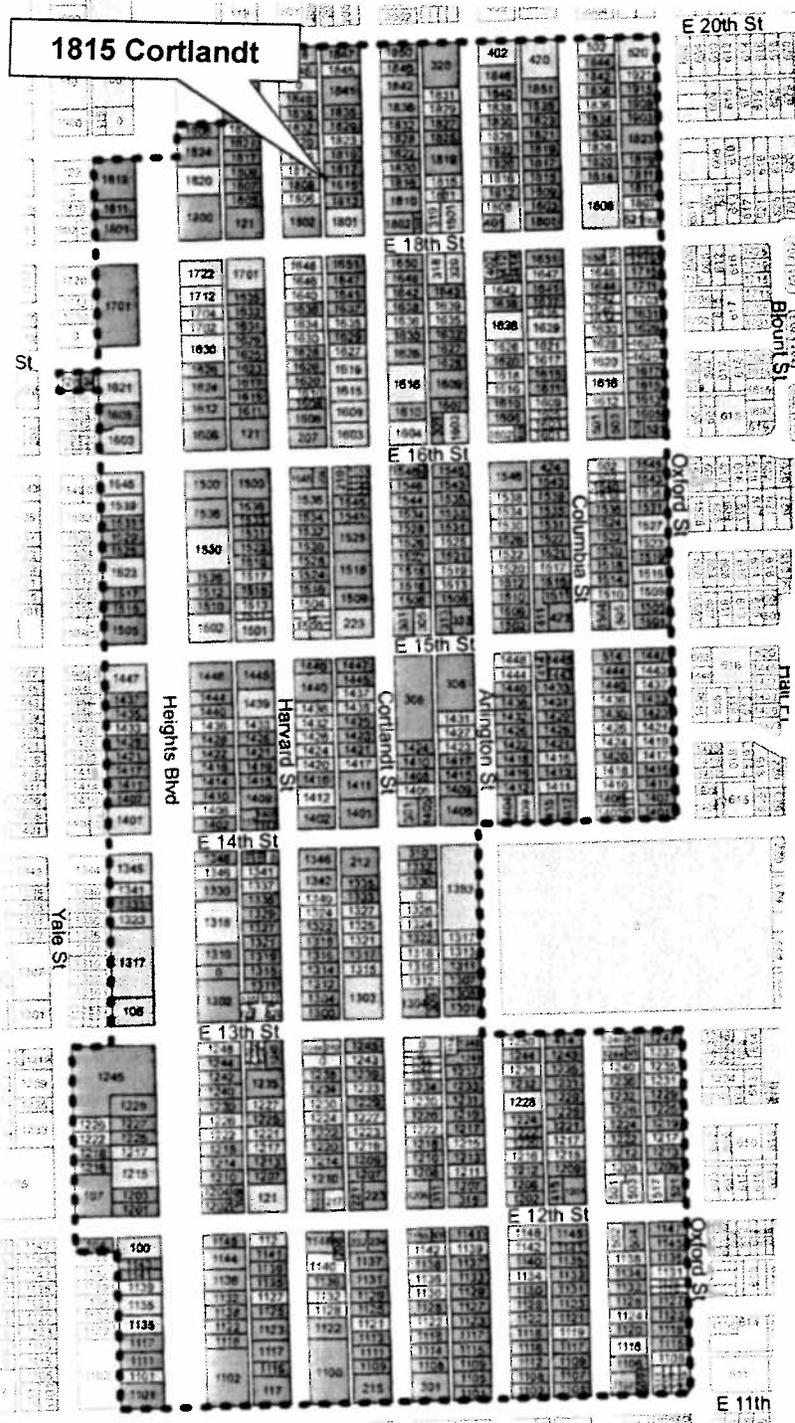
No information has been provided indicating there is any present threat to the structure requiring any such measures to be taken.

Building Classification

-  Contributing
-  Non-Contributing
-  Park

PROPERTY LOCATION

HOUSTON HEIGHTS HISTORIC DISTRICT EAST



CURRENT PHOTO



1978 TAX RECORD PHOTO

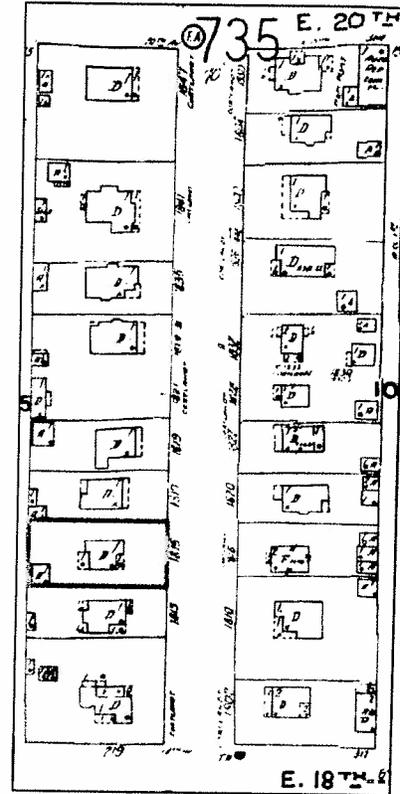
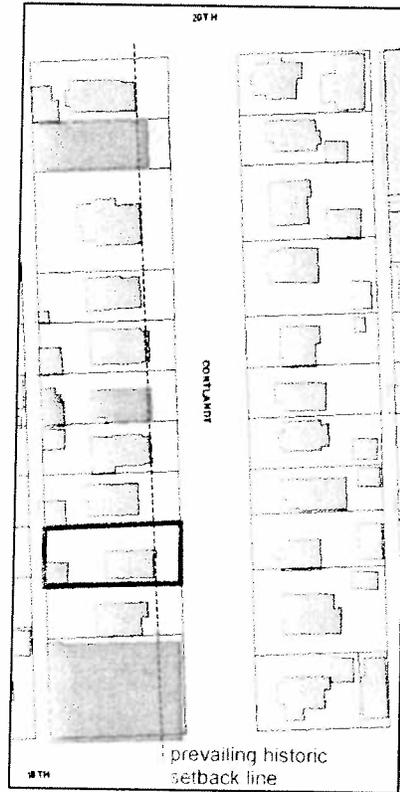
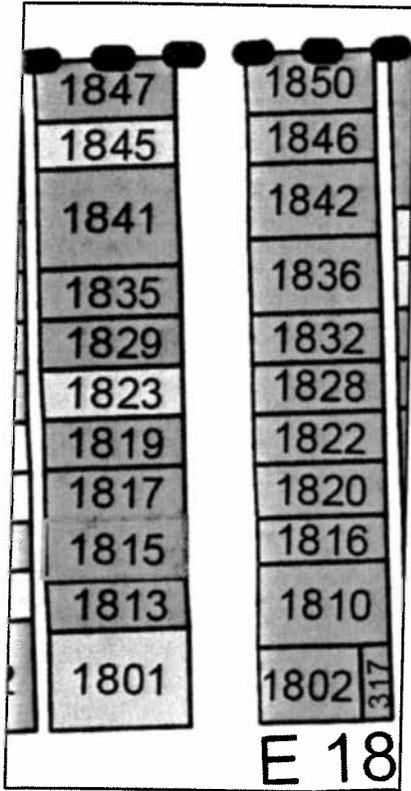


1800 BLOCK OF CORTLANDT

CONTRIB. (ORANGE)

CURRENT FOOTPRINTS

1924-51 SANBORN



1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1802 Cortlandt – Contributing – c. 1915



1810 Cortlandt – Contributing – c. 1915

1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1816 Cortlandt – Contributing – c. 1930



1820 Cortlandt – Contributing – c. 1915



1822 Cortlandt – Contributing – c. 1920



1828 Cortlandt – Contributing – c. 1920



1832 Cortlandt – Contributing – c. 1920



1836 Cortlandt – Contributing – c. 1920

1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1842 Cortlandt – Contributing - c. 1910



1846 Cortlandt – Contributing – c. 1920



1850 Cortlandt – Contributing - 1941



1847 Cortlandt – Contributing – c. 1910



1841 Cortlandt – Contributing - 1921



1835 Cortlandt – Contributing - 1906

1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1829 Cortlandt – Contributing – c. 1920



1819 Cortlandt – Contributing – c. 1920



1817 Cortlandt – Contributing – c. 1920



1815 Cortlandt – Contributing – 1941 (subject)



1813 Cortlandt – Contributing – c. 1920

CONTRIBUTING STRUCTURES WITH FEATURES SIMILAR TO 1815 CORTLANDT

(flat front facades, stoop porches, applied small gabled porch roofs, simple architectural details)



1511-1513 Arlington – Contributing - c. 1925



1816 Arlington- Contributing- c. 1915



304 E 16th – Contributing - c. 1940



415 E 16th – Contributing – c. 1940



1615-1617 Arlington – Contributing – c. 1920



1414 Heights – Contributing – 1943

CONTRIBUTING STRUCTURES WITH FEATURES SIMILAR TO 1815 CORTLANDT

(flat front facades, stoop porches, applied small gabled porch roofs, simple architectural details)



1136 Heights – Contributing – c. 1940



1418 Columbia – Contributing – c. 1915



1536 Columbia – Contributing – c. 1930



1150 Cortlandt – Contributing – c. 1920



1438 Harvard – Contributing – c. 1930



1115 Oxford – Contributing – c. 1920

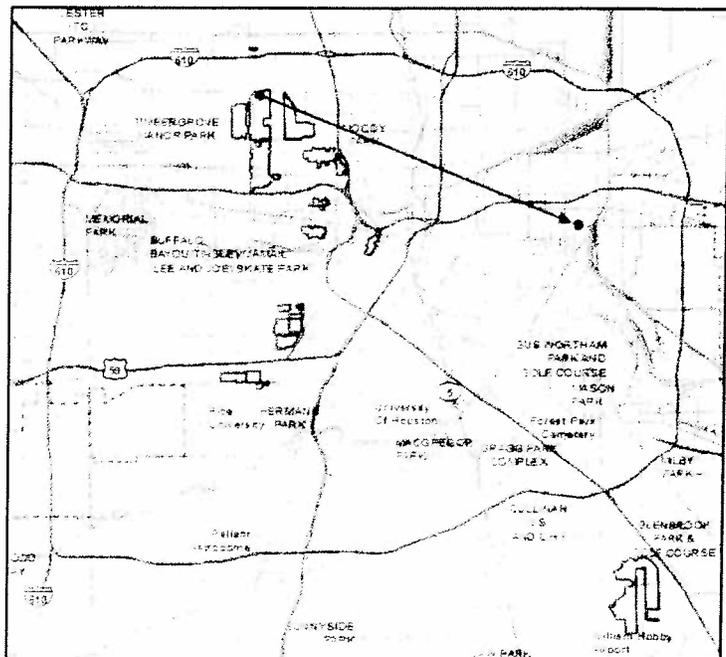


PROPOSED RELOCATION SITE: 1026 LATHROP STREET



Proposed Site – 1026 Lathrop
Lots 34, 35 & 36, Block 24, Denver Harbor
9,375 sf (75'x125') lot

Current Site – 1815 Cortlandt
Tracts 10 & 11A, Block 105, Houston Heights
7,920 sf (60' x 132') lot.





PROPOSED RELOCATION SITE: 1026 LATHROP STREET

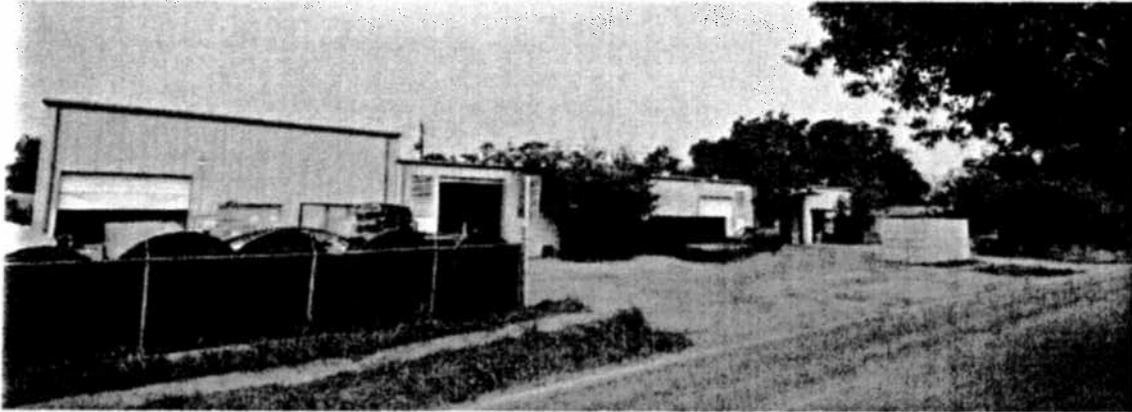
Red rectangle indicates proposed relocation site
Yellow numbers correspond to photos on following pages
Blue dots indicate the 3 remaining historic houses on blockface



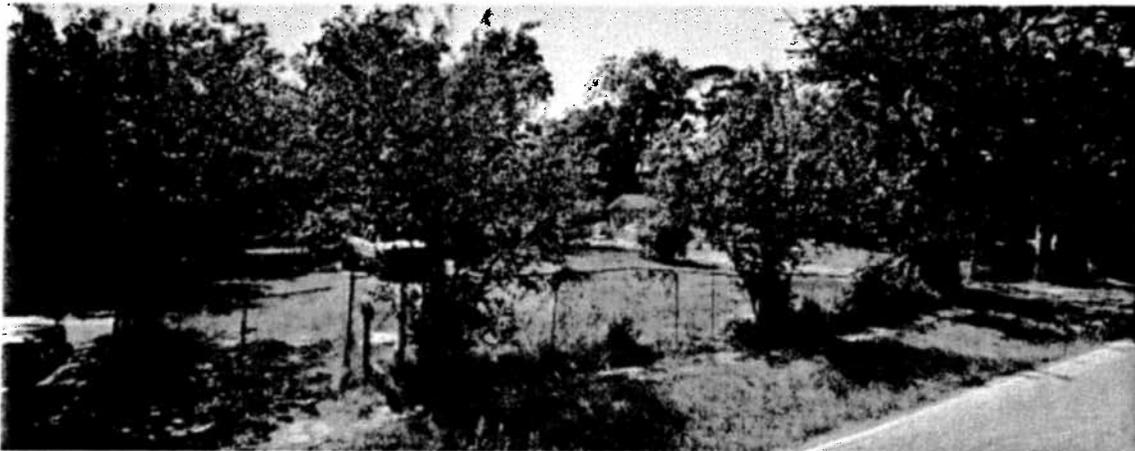
PROPOSED SITE BLOCKFACE PHOTOS

More neighborhood photos provided by applicant see pp. 43-46

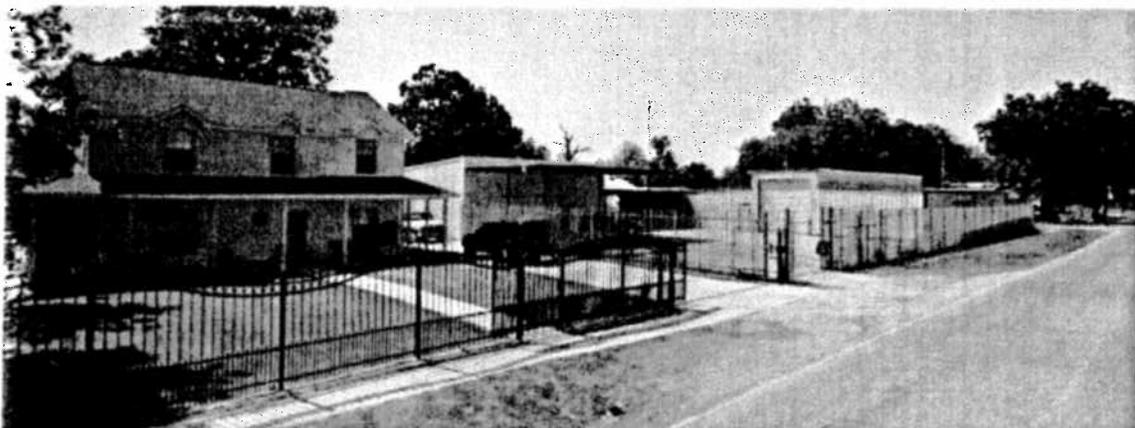
1 – south neighbor (14,400 sf 1980s commercial warehouse)



2 – proposed 9,375 sf relocation site & north neighbor (1,000 sf 1950s residence at rear of lot)



3 – northwest end of block (2,700 sf 2008 residence; series of 1950-80 commercial buildings)



PROPOSED SITE BLOCKFACE PHOTOS

4 – northeast end of block (1,030 sf 1926 residence & 1,000 sf 1928 residence)



5 – across from proposed site (3,250 sf 1970s commercial building)



6 – across from proposed site (1,000 sf 1930s residence facing Gonzales)



7 – southeast end of block (1,600 sf 1930s residence)

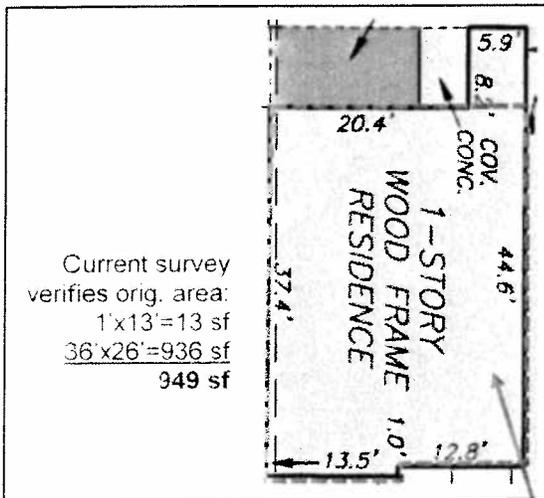


HARRIS COUNTY TAX RECORDS & CURRENT SURVEY

The 949 sf subject structure on Block 92, Lot 1 assessed for \$980 on 10/14/1941

Year 1941 | Lot 1 | Land Value \$160 | Bldg. Permit No. 4159 | Date 10-14-41 | Inspector's Value \$980

1941	Jos. A. Zagot	1	160	4159 10-14-41	980
		1	150		
		1	190		
		4	120		



Map No. _____ Permit No. 4159
 Vol. 20 Page 38 10/14 1941
 Owner: A. L. D. Malley
 No. 502-10 20th Street Avenue
 Addition No Ste Block 92 Lot 1 to 4
2-5 rm fr Size of Building
 wide _____ deep _____ stories _____
 wide _____ deep _____ stories _____
2- gar apt Size of Garage
 wide _____ deep _____ stories _____
 Material: Frame, Brick, Veneer, Stucco.
 Inside Finish: Rough, Plain, Ornamental, Hardwood, Pine, Plaster.
 Roofing: Slate, Tile, Tin, Shingle, Copper, Composition, Iron, Tar and Gravel, Paper, Asbestos.
 Plumbing: With or Without Bath Room.
 Permit Value, \$ _____
 No. Sq. Ft. _____ Per Sq. Ft. _____
 No. Sq. Ft. _____ Per Sq. Ft. _____
 No. Sq. Ft. 949 Per Sq. Ft. 130

$$\begin{array}{r} 1230 \\ 246 \\ \hline 984 \\ 1941 \end{array}$$
 Assessed Value of Building \$ 980
 Rendered in name of B. Zagot, Jos. A.

\$1230 = 949sf x \$1.3/sf
(\$980 = adjusted value)

HARRIS COUNTY TAX RECORDS & CURRENT SURVEY

By 1942, 4 structures existed on Block 92, Lots 1-4 (502/506 W 20th)

Harris County
BUILDING ASSESSMENT
Houston, Texas

Map No. _____ Permit No. 4159
Vol. 70 Page 88
10-14-1941

Owner J. H. TAGST
No. 502-2-10-20th Street or Avenue
Addition Houston Hts
Block 92 Lot 1-3

2-500sq ft base house
2-900sq ft apt

Size of Building
20 wide 26 deep 1 stories
20 wide 26 deep 2 stories

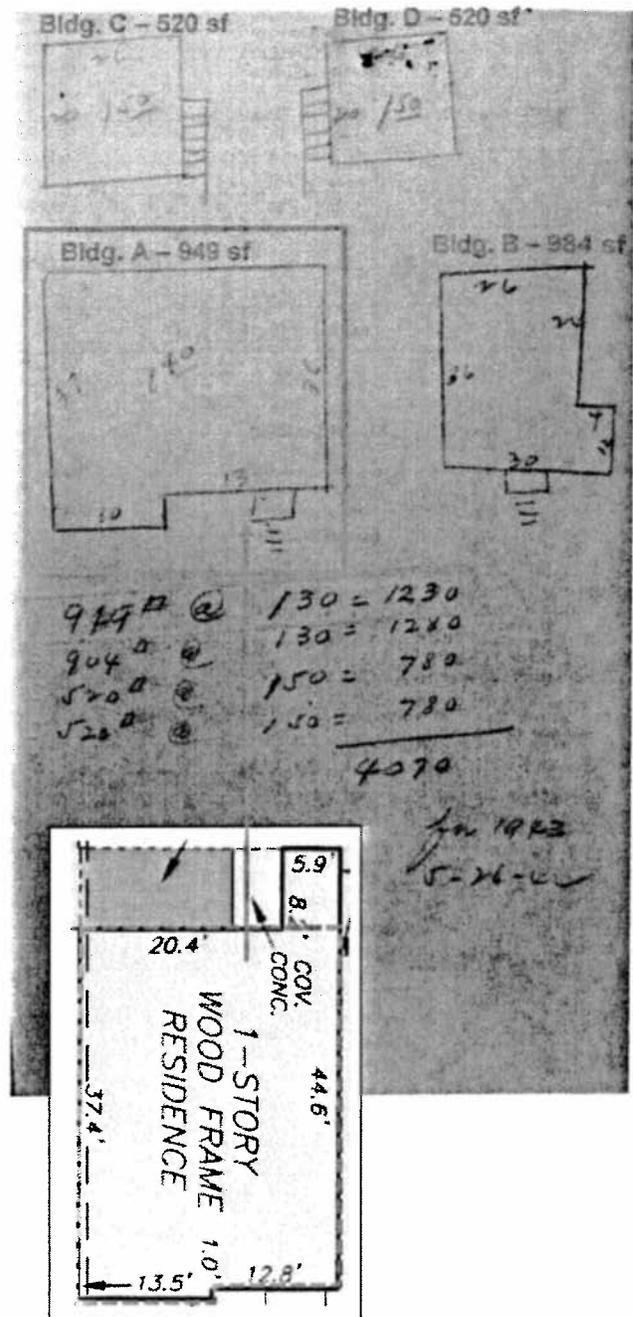
Size of Garage
wide _____ deep _____ stories

Material: Frame Brick, Veneer, Stucco, Asbestos,
Inside Plinthei Rough, Plain, Ornamental, Hardwood, Pine,
Plaster.
Roofing: Slate, Tile, Tin, Shingle, Copper, Composition, Iron,
Tar and Gravel, Paper, Asbestos.
Plumbing: With or Without Bath Room.

Permit Value, \$
No. Sq. Ft. 969 Per Sq. Ft. 1.30
No. Sq. Ft. 934 Per Sq. Ft. 1.30
No. Sq. Ft. 320 Per Sq. Ft. 1.50

4070 X 2220 5-26-42
814
3756 New Tax
1945 Assessed Value of Building \$ 3766

Registered in name of
Small, A. G.



HOUSTON HEIGHTS EAST HISTORIC DISTRICT DESIGNATION REPORT

Excerpt – Page 4

CITY OF HOUSTON

Houston Archaeological and Historical Commission Planning & Development Dept.

Subdivisions, etc., submit them. The proposed Houston Heights Historic District East qualifies for historic district designation under Criteria 1, 3, 4, 5, 6 and 8.

HISTORY AND SIGNIFICANCE OF HOUSTON HEIGHTS AND HOUSTON HEIGHTS HISTORIC DISTRICT EAST

The large urban neighborhood of Houston Heights covers approximately 1,756 acres just two-and-one-half miles northwest of Downtown Houston. One of the first planned suburbs in the state, Houston Heights has retained its architectural and civic identity to an unusual degree despite the subsequent loss of historic buildings and adverse development. This has been accomplished in spite of its location in one of the fastest growing cities in the United States. Houston Heights presents a Whitman's Sampler of turn-of-the-century architectural styles. Several notable late-Victorian mansions and substantial early 20th-century public, ecclesiastical, fraternal and commercial buildings serve as the anchors of the neighborhood. Nevertheless, the real strength of Houston Heights rests in its wide array of essentially vernacular, middle-class, and domestic architecture of the period 1893-1941.

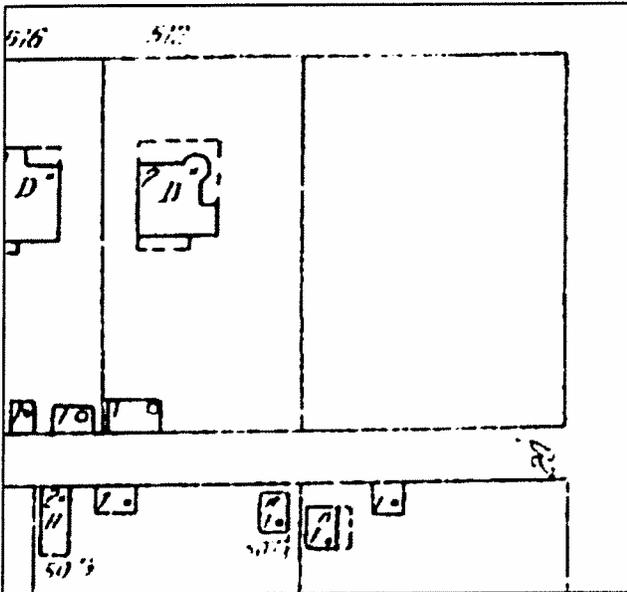
The one and two-story houses and cottages are usually of frame construction, and were constructed in a variety of styles. Influences from the Colonial Revival, Queen Anne, Folk Victorian and Bungalow styles clearly dominate, but noteworthy examples of other styles are also found, including Gothic, Neo-Gothic, Mission Revival, Renaissance Revival, Prairie, Craftsman Bungalow, English Bungalow and Art Deco. Furthermore, in spite of tremendous pressure for development, the effects of several periods of decline, and a lack of zoning laws, the relationship of the buildings within Houston Heights has survived. A majority of the area still consists of tree lined streets of older residences, punctuated by occasional churches, schools and commercial buildings. Yet more and more of the historic cottages are being demolished or moved away to other areas of Houston, and the historic fabric of Houston Heights is being replaced with large "MacMansions" – not only a trend in Houston but a national trend where there is no historic preservation review. The Houston Heights Association has become very concerned with this trend, and once historic district designation is adopted, anticipate that the education provided through the city's Historic Preservation Ordinance will benefit the residents and developers alike. The ultimate objective is to accomplish appropriate restoration and preservation of the existing historic resources, which is vital not only to insure the retention of the status of architectural significance of Houston Heights, but also to encourage new development that only replaces "non-contributing, non-historic" sites (shown on the attached inventory) and which should be compatible with and reinforces the architectural significance. The objective is to encourage:

- 1) Appropriate restoration of the remaining, historic buildings that have been classified as "potentially contributing" where architectural integrity has been diminished and should be returned as well as preserving the "contributing" buildings where their architectural integrity has been continuously maintained or it has been restored by appropriate restoration -- shown on the proposed historic district inventory (attached);
- 2) Appropriate additions to the historic building, which are subordinate and oriented to the rear and although they are attached, the additions do not alter the historic roof shape, and the additions appear as a secondary building behind the historic building, including the orientation of parking and parking structures to the side and rear of historic buildings; and,
- 3) New construction that only replaces buildings that have been identified as "non-historic, non-contributing" on the inventory of the proposed historic district (attached), but moreover, the new construction is reflective of the context, placement and elements of the types and styles of

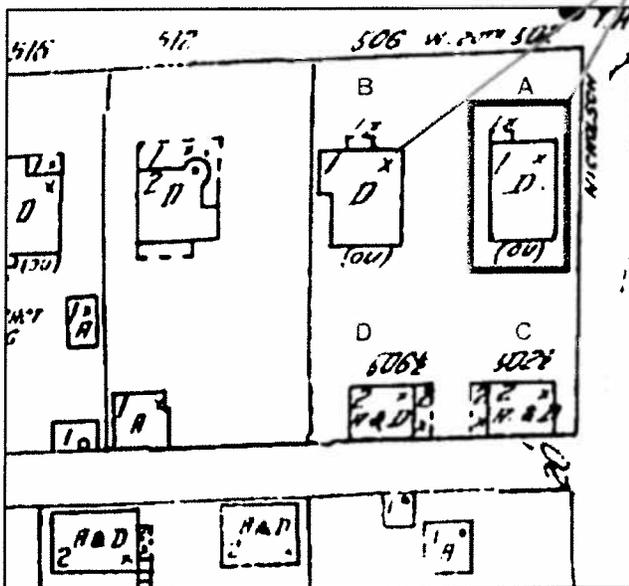


SANBORN FIRE INSURANCE MAPS & HISTORIC TAX PHOTOS

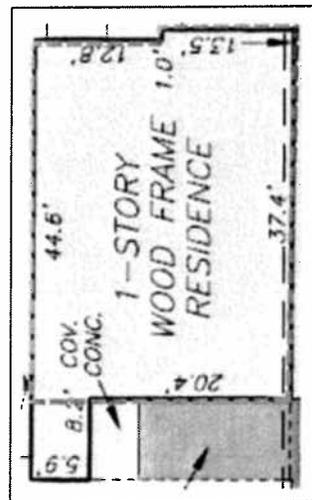
1924-1950 – property vacant



1924 – Feb. 1951 – residences on property



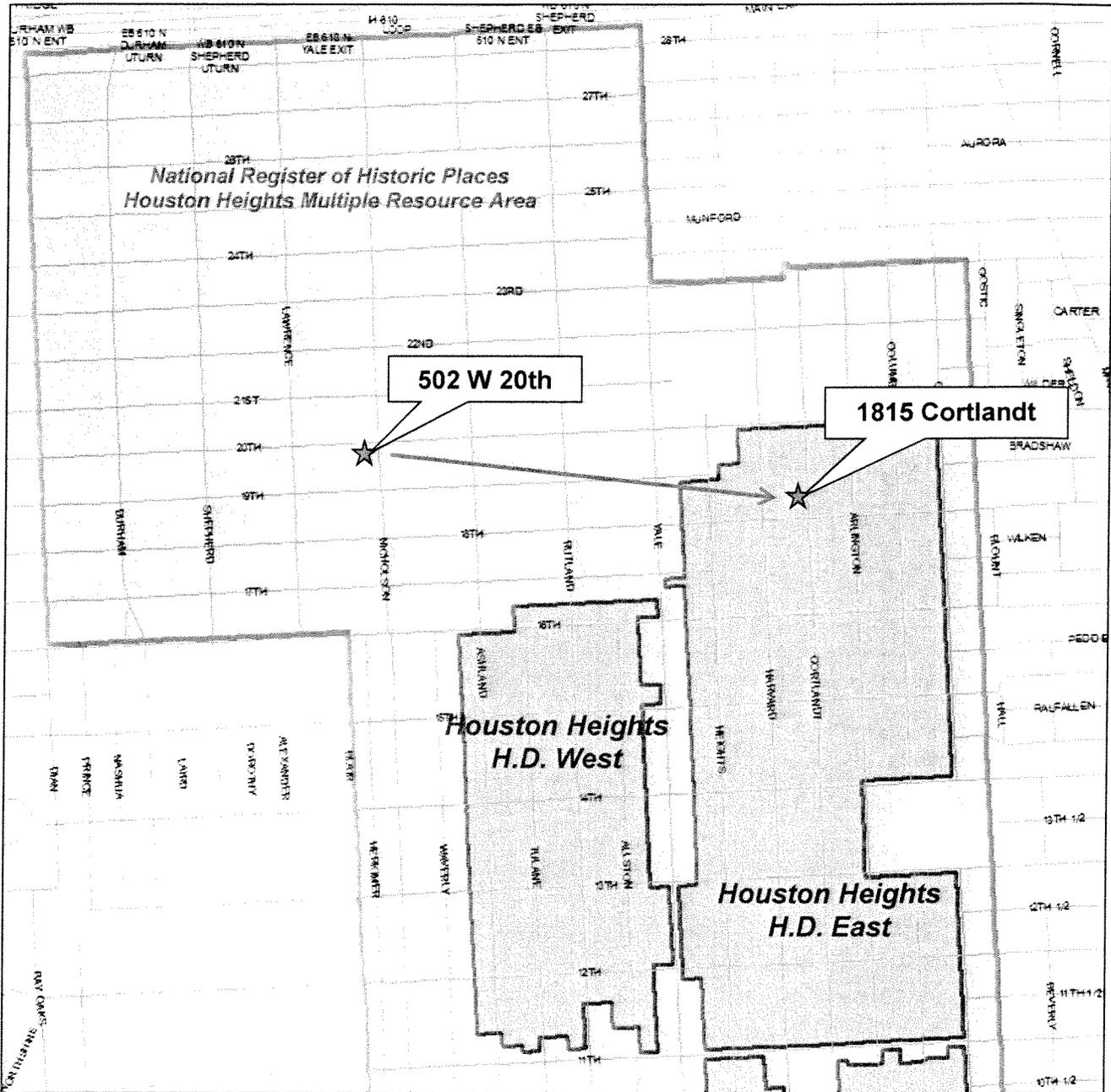
September 1967 Tax Photo
(Edge of subject structure at left side of photo)





1970 RELOCATION MAP

Original Houston Heights plat / MRA (orange) & Heights Historic Districts (blue)



PROJECT DETAILS

Description: The residence at 1815 Cortlandt is an example of transitional vernacular residential architecture. The physical form, raised foundation, and architectural details of the house have characteristics of 1920s and '30s residential architecture, yet the structural materials are those that were available at the time of construction in the 1940s. An inspection by a Senior Building Inspector verified old-growth wood and pre-war construction framing methods. The one-story single-family bungalow features a gable roof; a projecting front gable bay; and a small applied front stoop and porch roof. There is a small addition at the rear and a portion of the attic has been converted into living space; the house is otherwise in near-to-original condition. The containing block is one of the most architecturally diverse and intact historic residential blocks, with 18 of 22 structures classified as contributing.

At the time of the Houston Heights East Historic District Inventory the residence was classified as 'potentially contributing' due to the residence having vinyl siding and aluminum windows (these alterations are considered reversible when historic housing is being inventoried). In the Inventory, the residence was listed as a bungalow constructed circa 1920. Subsequent research supports that the structure was constructed in 1941 at 502 W. 20th Street in the Houston Heights, and was relocated to 1815 Cortlandt in 1970. All current information continues to support a contributing classification.

Significance: The Houston Heights East Historic District was designated by City Council in February 2008. Established in 1891, the Houston Heights was incorporated as an independent city in 1896, and was annexed to the City of Houston in 1918. Houston Heights maintains a unique identity and distinctive, self-contained "small town" feel. The district is predominantly comprised of small 19th century one-story cottages, larger two-story Victorian-era homes, and numerous early 20th century bungalows (including the subject residence). The district is contained within the boundaries of the 1983 Multiple Resource Area (MRA) National Park Service designation honoring the concentration of historic buildings and early history of the Houston Heights as an independent municipality. The original and current location of the residence is in National Register of Historic Places Houston Heights MRA.

The historic period of significance for the Houston Heights is the 1890s-1940s. The Houston Heights Historic District East Designation Report it states, "the real strength of Houston Heights rests in its wide array of essentially vernacular, middle-class, and domestic architecture of the period 1893-1941" (p. 18). However, it is not required for structures to have a construction date prior to 1941, nor within the period of significance, to be classified as contributing. The definition of a contributing is a building that reinforces, or that has conditions, which, if reversed, would reinforce, the cultural, architectural or historical significance of the historic district in which it is located, and that is identified as contributing upon the designation of the historic district.

The historic character of the district is defined by a diverse collection of commercial and residential architecture constructed over six decades. Heights East contains at least 20 structures known to have been constructed in the 1940s that are classified as contributing. The contributing classification of these structures was intentional as the period is significant to the neighborhood's history. Early 1940s transitional residential architecture is compatible with the earlier homes of the district. As stated at the top of the column in the Inventory, dates listed are "circa dates". Particularly, those listed on the beginning and middle of a decade are "circa" (1920 means constructed circa 1920; 1935: circa 1935; 1940: circa 1940, etc.).

Relocated structures are not exempt from being classified as contributing if the structure's historic character is compatible with the district. Houston historic districts contain many structures that have been relocated from their original sites. The original, and current, location of the subject house is within the 1891 City of Houston Heights plat. Although relocated, the subject structure remains in its original historic neighborhood.

ATTACHMENT A
APPLICANT COA MATERIALS

Written Description - pp. 22-24

Supporting Documents - pp. 25-40

Relocation Site Information - pp. 41-51

Relocation Service Letter - pp. 52-57

Designation Report Excerpt - p. 58

Inventory Excerpt - p. 59

Documents presented at Planning
Commission

1815 Cortlandt - Existing Structure

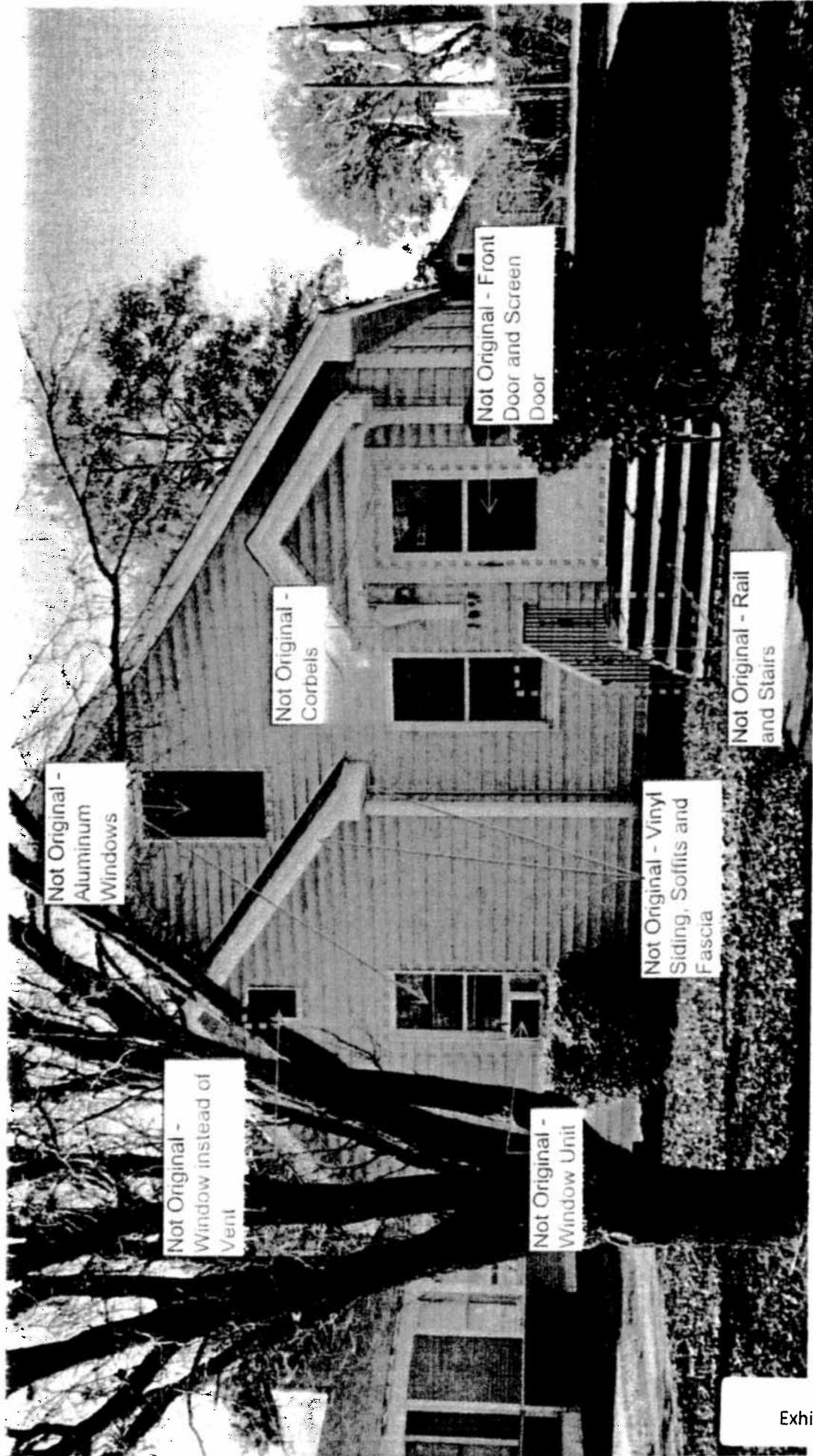
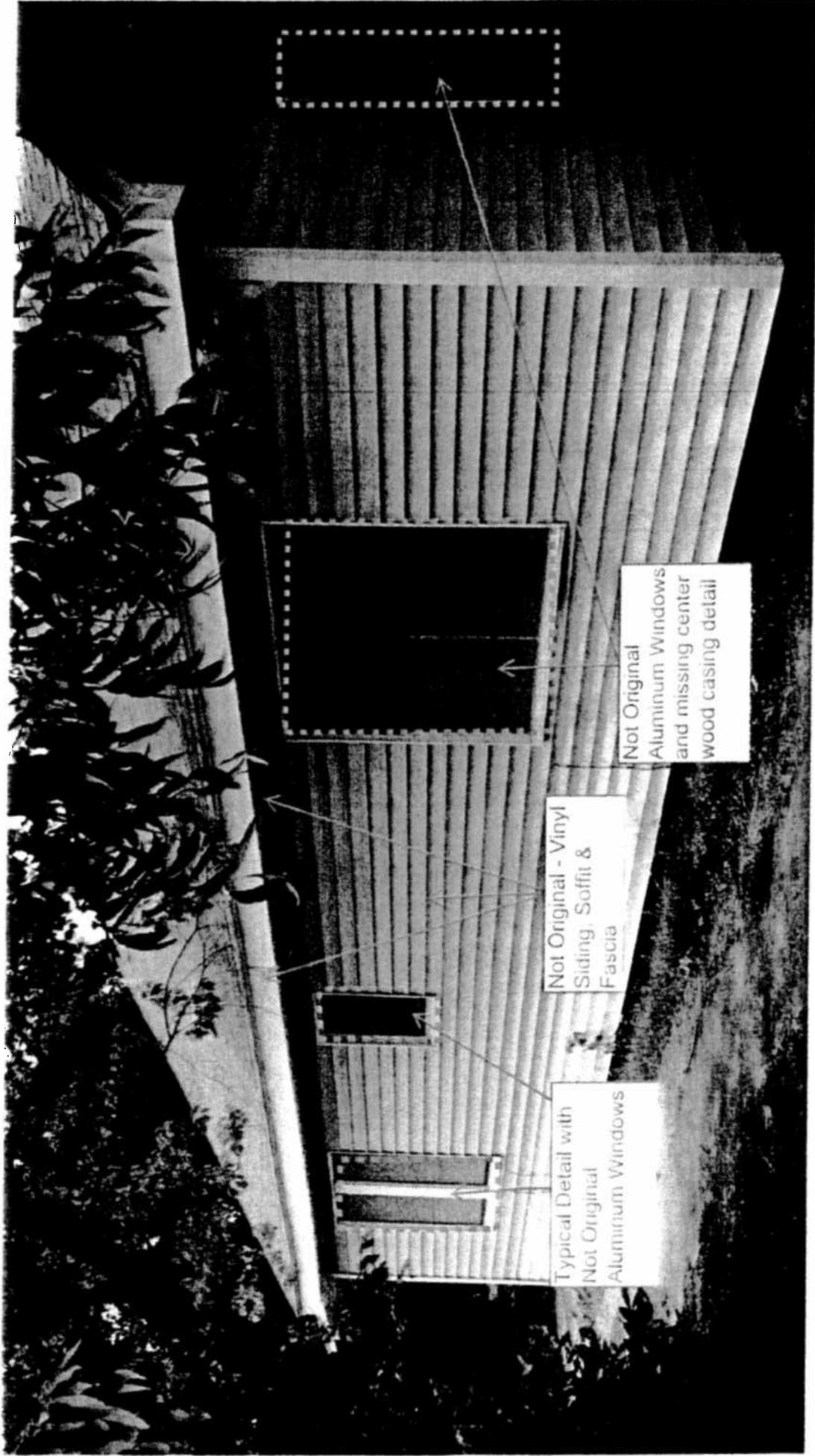
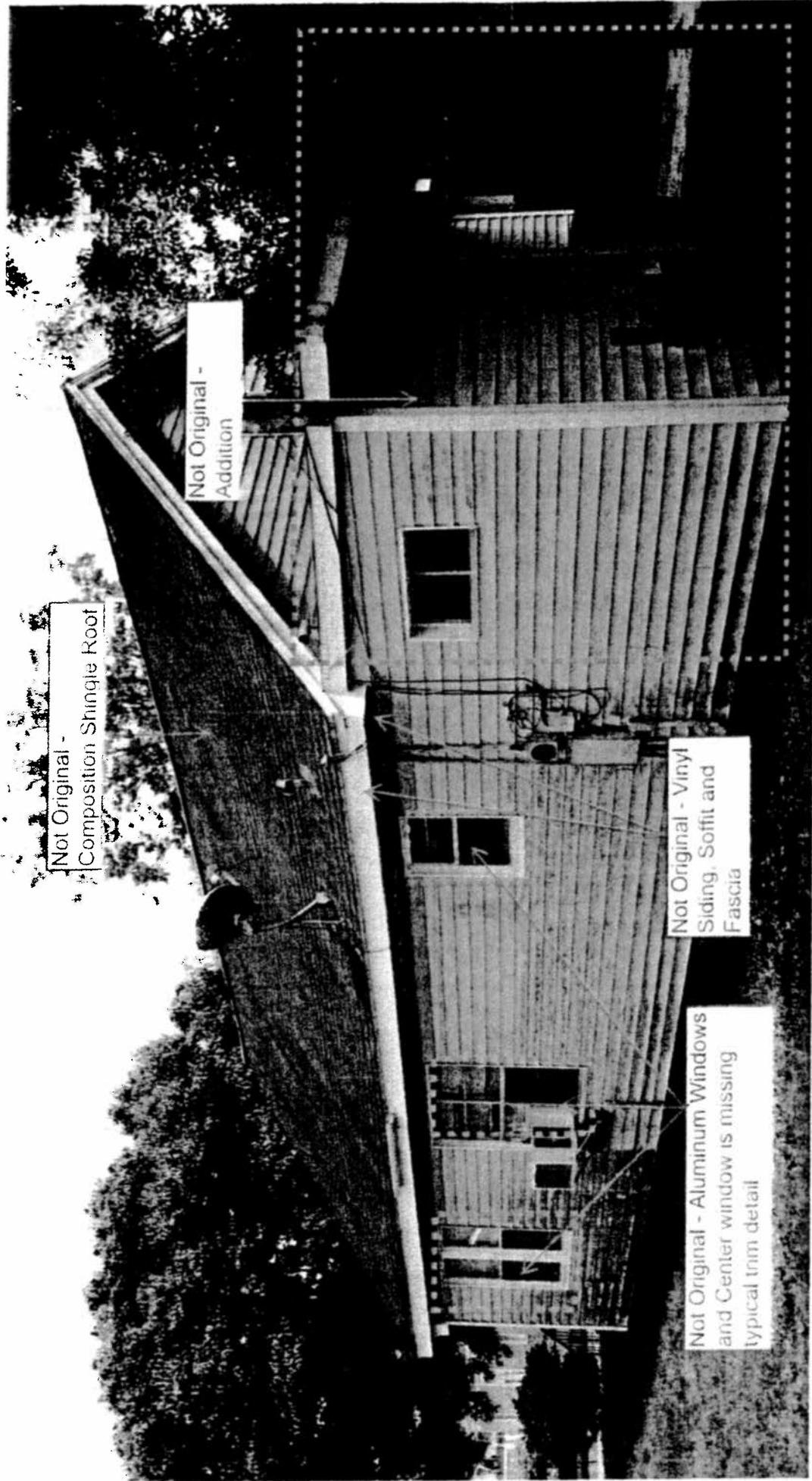


Exhibit B

1815 Cortlandt - Existing Structure



1815 Cortlandt - Existing Structure



Timothy Kirwin

From: DuCroz, Diana - PD <Diana.DuCroz@houstontx.gov>
Sent: Friday, May 02, 2014 5:01 PM
To: Timothy Kirwin
Cc: Harris-Finch, Delaney - PD; Butler, Geoff - PD
Subject: RE: Appeal questions.
Attachments: Iir_1817_Cortlandt_Addition_ACTION.pdf; Iiq_1815_Cortlandt_Relocation_ACTION.pdf

TimeMattersID: M0B8CA369EF6E590
TM Contact: Gabriel Home Builders, Inc.
TM Contact No: 5237
TM Matter No: 5237-1
TM Matter Reference: 1815 and 1817 Cortlandt

Hi Tim

Here are answers to your questions:

- 1) You have until Monday to file the written appeal, as the 10th day falls over the weekend.
- 2) Attached are the Action Reports for the Certificates of Appropriateness. HAHC agreed with staff's findings for both.
- 3) We should be able to get you on the May 15 agenda. There is a required 10-day notice of hearing that Planning must send to the appellant, but if it goes out Monday, that will meet the requirement.
- 4) You do not need to place a sign on the property for the appeal hearing.

If you have further questions, please let me know.

Diana

Diana DuCroz, City of Houston Planning & Development Department
(713) 837-7924

-----Original Message-----

From: Timothy Kirwin [<mailto:Tim@igradyrandlepc.com>]
Sent: Thursday, May 01, 2014 4:16 PM
To: DuCroz, Diana - PD
Subject: Appeal questions.

Ms. DuCroz. I will be filing an appeal to the planning commission regarding 1815 and 1817 Courtland denials of certificate of appropriateness' of the HAHC.

I want to make sure I comply with the city's appeal procedures.

1. The deadline to appeal is tomorrow, but I have not received a copy of the findings of the HAHC. I placed an open records request but have not heard back. It will be difficult to state the grounds for the appeal without the HAHC reasons for such denials. Can you assist with providing a copy of the findings?

2. We would like to make the May 15 planning meeting date. Do we need to place signs on the property like we did for the HAHC meeting? If the appeal is submitted tomorrow, do you see any reason we would not be heard at the next regular planning commission meeting?

Thank you. If you need more information, please give me at call at 281-657-2000.

Tim Kirwin.
Attorney for owner
Randle Law Office
820 Gessner, Suite 1570
Houston, TX 77024

COPY

Appeal to Certificate of Appropriateness

by the

Houston Archaeological and Historical Commission

1815 Cortlandt Street

Houston Heights Historic District East

CITY OF HOUSTON
Council Chamber, City Hall Annex
THURSDAY, MAY 15, 2014
Chairman: Mr. Mark A. Kilhenny

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APPEARANCES

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HOUSTON PLANNING COMMISSION:

Mr. Clay Forister
Mr. Paul R. Nelson
Mr. James R. Jaro
Mr. Kenneth J. Bottan
Mr. Blake Tart III
Ms. Algenita Davis
Mr. Shaukat Zakaria
Mr. Truman C. Edminster III
Mr. Keiji Asakura
Mr. Patrick Walsh
Mr. Mark A. Kilhenny
Mr. Sonny Garza
Ms. Lisa Clark
Mr. Antoine Bryant
Mr. Fernand L. Brave
Ms. Eileen Subinsky
Ms. Susan Alleman
Mr. Mark O. Sykes
Mr. Marty Stein
Ms. Linda Porra-Pirtle
Mr. Raymond J. Anderson
Mr. Omar Izfar

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1 P R O C E E D I N G S

2 MR. CHAIRMAN: Good afternoon. We do have the
3 forum present. If everyone would take their seats, please.

4 At this time I call to order the Houston
5 Planning Commission Meeting, May 15, 2014.

6 MR. CHAIRMAN: We move now to Roman Numeral V,
7 Consideration of an Appeal of the Decision of the Houston
8 Archaeological and Historical Commission on April 24, 2014, for
9 a Certificate of Appropriateness for: a) 1815 Cortlandt
10 Street; and b) 1817 Cortlandt Street.

11 And before I turn it over to staff, I want to
12 remind the commission as well as the public here at the meeting
13 that, if you remember, we modified the appeals procedures
14 earlier this year with respect to these types of items, and so
15 the five rules that the Commission has formally adopted include
16 that a one-week deadline, prior to the Planning Commission
17 Meeting for materials submitted by the -- for the appeal to be
18 submitted to the Planning Department by the applicant, that at
19 the Commission Meeting, staff will summarize the project and
20 provide the basis for the Historic Commission's decision;
21 thirdly, the Appellant will then have five minutes to present
22 their case.

23 They may yield any amount of this five-minute
24 time to other professionals they have retained in association
25 with the product -- project. No other individuals -- since

1 this is an appeal, no other individuals are permitted to
2 address the Commission on this item, and the comments from
3 the -- those presenting should be limited to the ways in which
4 the project meets the criteria; and certainly, the
5 Commissioners can ask questions at any time, and those will not
6 be charged against the Appellant in their allotted speaking
7 time.

8 And, of course, the charge to the Commission is
9 the Applicant has the burden of proof that the project meets
10 the criteria for approval. And unless the Commission finds the
11 project meets the criteria, it must uphold the decision of the
12 Historic Commission. Okay.

13 MS. FINCH: Good afternoon, Mr. Chair, Members
14 of the Commission. My name is Delaney Harris-Finch.

15 And today I'll submit, for your consideration,
16 an appeal to the Planning Commission of the Decision of the
17 Houston Archaeological and Historical Commission, Item 5(a) an
18 appeal of the denial by the HAHC for a request for a
19 Certificate of Appropriateness to relocate a Houston Heights
20 Historic District East contributing structure.

21 At their April 2014 meeting, the HAHC found that
22 the proposal to relocate the residence located at 1815
23 Cortlandt Street to a location outside of the district did not
24 satisfy approval criteria.

25 In late January, the prime applicant submitted

1 an application for approval to relocate the residence and
2 requested the proposal be evaluated under relocation criteria
3 4, the unusual or compelling circumstances criteria, which is
4 pursuant to the similar demolition criteria.

5 Prior to this application, in December of 2013,
6 the HAHC denied a previous applicant approval to demolish the
7 residence under the unusual or compelling circumstances
8 criteria. The demolition denial was appealed to the Planning
9 Commission who upheld the HAHC's decision to deny the C of A.
10 These decisions supported that the residence has historic value
11 and reaffirmed the contributing classification.

12 The current relocation proposal was first
13 presented to the HAHC at their February meeting, and upon
14 review of the application, staff recommended denial. At the
15 meeting, the applicant presented new materials and requested
16 consideration under relocation criteria 1 instead of criteria
17 4. The HAHC deferred the item to allow time for documentation
18 for criteria 1 to be submitted and reviewed. At the meeting,
19 the HAHC expressed concern for protection for the historic
20 residence, if relocated out of the district, and inquired about
21 whether it may qualify for individual landmark designation.

22 At the following HAHC meeting in March, staff
23 recommended denial based on review of all material submitted to
24 date. Upon applicant's request, the Commission, again,
25 deferred the item to allow time for further documentation to be

1 submitted for review.

2 At the April meeting, the Commission reviewed
3 the applicant's request and found that the proposal did not
4 meet relocation criteria 1 or 4.

5 There are three historical preservation
6 principles that are important to understand; the relation to
7 relocation request for properties in historic districts and the
8 basis for the approval criteria. First, the historic district
9 is the resource, not its individual parts. Districts are
10 significant as a collective whole and must be considered as
11 such and protected in their entirety; second, the historic
12 district character is defined by the contributing structures
13 which are identified through the designation period as
14 structures that reinforce or that have conditions which, if
15 reversed, would reinforce the cultural, architectural, or
16 historic significance of the district; third, contributing
17 structures -- structures should not be removed to create
18 infilled opportunities.

19 Each contributing structure has been determined
20 to be compatible with and support the historic value of the
21 district. A reduction of contributing structures dilutes and
22 compromises the district character.

23 The Height's standard set in both the relocation
24 and demolition criteria reflect these principles: The
25 residence at 1815 Cortlandt is a 1940's transitional bungalow.

1 The home has characteristics reflecting earlier homes in the
2 area, yet the structural materials are those that were
3 available at the time of construction. The residence
4 currently has vinyls, siding, and aluminum windows, which is a
5 common alteration found on contributing structures and is
6 considered reversible.

7 In the historic district inventory, the bungalow
8 at 1815 Cortlandt was classified as contributing and listed as
9 construct (Unintelligible) of the 1920. Subsequent research
10 has determined that the structure was constructed in 1941 at
11 502 West 20th Street and was relocated to its current location
12 on Cortlandt Street in 1970. Relocated structures are
13 consistent and classified as contributing that the structure's
14 character is compatible with the district. The district
15 contains several transitional 1940's houses classified as
16 contributing, therefore, it sets a criteria in which the HAHC
17 may approve a relocation C of A. The criteria is found in
18 Chapter 33, Section 243(a) and are included on pages 4 and 5 of
19 the appeal staff report.

20 As I mentioned before, the proposal is initially
21 reviewed under criteria 4 and, subsequently, under criteria 1,
22 for that (Unintelligible) request.

23 Criteria 4 requires the applicant to establish
24 the unusual -- an unusual or compelling circumstance. The
25 subsections of criteria 4 that the applicant was found not to

1 satisfy were 1, 2, and 3, which are; 1) Current information
2 does not support the historic significance of the building or
3 its importance to the integrity of the historic district. All
4 current information continues to support a contributing
5 classification. The traits of the 1815 Cortlandt bungalow are
6 not unique to this property and are conditions true to other
7 contributing structures in the district; 2) are there plans for
8 reuse of the property if proposed -- if the proposed relocation
9 is carried out, and what effects do such plans have on the
10 character of the surrounding area. Future plans to construct a
11 single-family residence on the property, having indicated
12 further information, has not been provided; and for 3) whether
13 reasonable measures can be taken to save the building from
14 further deterioration, collapse, arson, vandalism, or neglect.
15 No information has been provided indicating there's any present
16 threat to the structure requiring such action.

17 The second set of relocation criteria the
18 application was reviewed under, criteria 1, has four
19 subsections. The applicant was found to not satisfy a, c, and
20 d which are; a) the structure has architectural or historical
21 value independent of its physical location that would not be
22 diminished with relocation. Evidence does not support that the
23 historic value of the property is not associated with the
24 Houston Heights Historic District East. All information
25 supports the classification of contributing and the structure

1 as reinforcing the historic significance of the district. No
2 information has been provided to satisfy the landmark criteria
3 to determine independent historic value or the opportunity for
4 protection if removed from the district; c) the structure will
5 be relocated to an area that is compatible with the historic
6 and architectural character of the structure. Evidence
7 supports that the structure is compatible with the Denver
8 Harbor residential neighbor, which is the proposed site;
9 however, the proposed contained block does not possess a
10 historic or compatible residential character; and d) the
11 structure will be relocated without significantly diminishing
12 the integrity of the historic district in which it is located.

13 Evidence does not support that relocation of the
14 structure will not diminish the Heights East district. The
15 district is significant, as a whole, and removal of
16 contributing structure compromises the value of the district.

17 Upon these findings, the HAHC voted five to two
18 to deny this effect.

19 Today, it came to the staff's attention that the
20 applicant did not comply with the public notice requirements
21 for relocation applications for Section 33238-1. A sign is
22 required to be maintained on the site until the close of the
23 meeting at which the HAHC takes action, which was April 24th.
24 A photo of the site on April 18th shows no sign at the site and
25 that the date the sign was removed is unknown.

1 The Planning Commission may find in favor of the
2 Appellant only if it finds that applicant has demonstrated the
3 requests meets relocation criteria 1 or 4.

4 Commissioners, you've been provided with
5 supplemental items in your packet, including; a) the April HAHC
6 Staff Report; attachment b) the Applicant Request for Appeal;
7 c) Applicant Supplements, and d) two public letters opposing
8 the approval of C of A by appeal.

9 Mr. Chair, if it pleases the Commission, we may
10 now hear from the applicant or the applicant's representative
11 if they so wish to speak.

12 MR. CHAIRMAN: Do we have questions of the staff
13 first? Yes, Mr. Jaro?

14 MR. JARO: Obviously, there hasn't been a rush
15 to judgment in this case. When you were reading the last two
16 different reasons for the denial, do those relate back to the
17 first application, and then they submitted under different
18 criteria, so the criteria you're reading, those are the two
19 that they brought before the historical commission, so I
20 understand that?

21 MS. FINCH: Correct.

22 MR. JARO: Thank you.

23 MS. FINCH: We reviewed under both.

24 MR. JARO: Thank you.

25 MR. CHAIRMAN: Any other questions for staff?

1 MS. DAVIS: Yes, question.

2 MR. CHAIRMAN: Yes, Ms. Davis?

3 MS. DAVIS: This is a 1941 house that was moved
4 to this location in 1970. You -- did you say where it was at
5 first, because one of the criteria --

6 (Coughing).

7 MS. DAVIS: -- whether it brings historic value
8 to the Houston Heights and where was it before, and was it in
9 the Houston Heights prior to 1970?

10 MS. FINCH: It was. It was located at 502 West
11 20th, which is less than a mile away from its current location,
12 which is -- and they're both original to the historic Houston
13 Heights neighborhood. Both locations.

14 MS. DAVIS: So the -- in the blue is
15 Houston Heights and in the beige is --

16 MS. FINCH: The orange represents the Houston
17 Heights neighborhood as it was platted as its original city.
18 The two blue, the one, two -- I guess the right, if you're
19 looking at it, it's the Heights East District, and the left
20 blue mass is the Heights West District.

21 MS. DAVIS: So the 502 West 20th, that's no
22 longer a historic area?

23 MS. FINCH: It's a historic area for the
24 national register but not a local district.

25 MS. DAVIS: All right. Thank you.

1 MS. FINCH: You're welcome.

2 MR. CHAIRMAN: Any other questions from staff
3 before I let the Appellant speak? Thank you.

4 At this time I'll call forward Tim Kirwin.
5 Mr. Kirwin, you have five minutes.

6 MR. KIRWIN: Thank you. Members of the
7 Commission, thank you. I have not addressed this Commission
8 before. My name is Timothy Kirwin. I am attorney. I am also
9 a degreed and published historian, and I represent seven
10 different cities as city attorney.

11 I stand here on this side of the podium today, a
12 little different spot for me. I have the privilege of
13 representing the applicant, Brick Moon Designs, and the owner,
14 Laura Menafee.

15 We are here today to ask you to reverse the
16 decision of the Houston Archaeological and Historical
17 Commission and grant a Certificate of Appropriateness for 1815
18 Cortlandt and to allow the removal off this structure for two
19 reasons. Reason No. 1, I'm going to talk about the substantive
20 criteria. Under your ordinance, there are four criteria that
21 we must satisfy. No. 1, that the structure has independent
22 historical significance. We can satisfy that. This structure
23 was built, borne, raised, and resided for 30 years in another
24 part of town. Yes, a mile away, but outside of this district
25 at 502 West 20th Street. The fact that it spent 30 years,

1 nearly half of its life in another location, gives it, per se,
2 independent historical significance from the location it's at.

3 The second criteria is that it can be moved
4 safely. This is not a dispute. This is in the staff report.
5 This was adopted by the Commission.

6 The third area is that it can be moved to an
7 area -- if we can put that up, please. If you would look at
8 it, what I have circled there, it has to be moved to an area
9 that is compatible. If you look at the staff report here,
10 staff says, "The Denver Harbor area is compatible." It does
11 not require we remove it to a historic district, it does not
12 require that we remove of it to a historic street. It says
13 "area." Staff has conceded that. That should not be an issue
14 for this Commission.

15 And finally, the last point is that if it is
16 relocated, it will not -- and look at the word I've
17 highlighted, please -- "significantly diminish" the integrity
18 of the district. Now, if you look at what staff's report says
19 down here, they talk about the word "diminish." They do not
20 use the word "significantly diminish." And this is what was
21 adopted by the Commission. If you make us prove "diminish,"
22 that's a much harder standard for us to prove. We have to show
23 that it will significantly diminish if it is moved.

24 Now, this structure here, does not have the
25 original roof, siding, foundation, windows, doors -- and if you

1 would just flip through those really quickly, please -- you can
2 see all the structure. The entire exterior envelope of the
3 structure is not original.

4 We are asking to move this to the Denver Harbor
5 area. We have a person that wants to live in this house, they
6 want to establish this as their home.

7 And that's our first case; that we do meet all
8 the criteria under your ordinance.

9 My second point that I'd like to make is that
10 there were procedural errors. The Archaeological and
11 Historical Commission is required to do two things when they
12 hear Certificates of Appropriateness. They are required to
13 approve or disapprove an application, and they must make
14 consideration in the findings with respect to the relationship
15 between the proposed activity and the applicable criteria. All
16 they did was rubber stamp the staff report. They did not make
17 findings like they're supposed to in here. But even if this
18 Commission believes that rubber stamping the staff report is
19 good enough, they failed to do the second part.

20 Your ordinance requires the Commission to take
21 into consideration the current needs of the applicant and it
22 shall be sensitive to the property owner's financial condition
23 in determining whether to issue a Certificate of
24 Appropriateness. That is in the general category of your
25 ordinance. They are required to make that finding. There is

1 nothing in the record that they did that.

2 And finally, let me just address a concern that
3 was brought up on the sign issue. I sent an e-mail to
4 Ms. DuCroz. I asked her if we needed to post a sign. I have
5 the e-mail here where she told us we do not. This is the kind
6 of information we've been getting from the staff from day one,
7 inconsistent; and they've been changing their position. And
8 you will see this when I speak again on 1817, that there's been
9 a total flip-flop on staff, and it puts our applicant in a
10 position where they cannot move forward.

11 We're going to ask that you make the Commission
12 do their job below, that you grant the Certificate of
13 Appropriateness, and allow us to move the structure. Thank
14 you.

15 MR. JARO: I have a question.

16 MR. CHAIRMAN: Yes, Mr. Jaro?

17 MR. JARO: This truly is a question; it's not a
18 rhetorical one. Staff talked about one of the criterias what's
19 going to happen to the lot if the house was moved, and they
20 said nothing had been shown them. Under the section you're
21 relying on, is that a criteria, or is that a criterion in a
22 separate section?

23 MR. KIRWIN: I do not see that as a criteria in
24 this section whatsoever. I think the staff and the Commission
25 would like that be -- to be a criteria, but it is not spelled

1 out.

2 What they have done is they take -- they are
3 either engrafting words into your ordinance that is not there,
4 or they're taking them out of the ordinance. For example, they
5 took the word "significantly" out. They cannot do that. And
6 that's the problem is that they are not looking at the words of
7 what the ordinance say.

8 MR. JARO: So in the section you're relying on,
9 it does not need a determination what's going to happen to the
10 lot if the house is removed?

11 MR. KIRWIN: There is nothing that talks about
12 that, and there's nothing that talks about the landmark --

13 MR. JARO: I just want to understand your
14 position. The staff will have a chance to tell us. Thank you.

15 MR. KIRWIN: Thank you.

16 MR. CHAIRMAN: Other questions, for Mr. --
17 Mr. Brave?

18 MR. BRAVE: Clarification about the sign being
19 there or not, you said you sent an e-mail asking if you had to
20 what?

21 MR. KIRWIN: I sent an e-mail. I asked
22 Ms. DuCroz if we were required to post a sign on the property
23 for this appeal. I have the e-mail right here. She said we do
24 not. And she can answer that question, because she's here
25 today.

1 MS. DUCROZ: I'd be happy to.

2 MR. BRAVE: Yeah, please.

3 MR. CHAIRMAN: Unless there's any other
4 questions?

5 MR. BRAVE: Not for you.

6 MR. CHAIRMAN: Not at this time. Yes,
7 Ms. DuCroz?

8 MS. DUCROZ: There is no requirement for a sign
9 to be posted for an appeal. The sign in question was the sign
10 for the meeting at the HAHC, which is required to be in place
11 for the C of A application until the HAHC makes a decision.
12 Their decision was on April 24th. The photo that we showed you
13 is April 18th, and the sign was not there. It had been
14 removed.

15 MR. JARO: I have a question.

16 MS. DUCROZ: There are two different signs.

17 MR. JARO: Well, we've obviously punished them
18 enough for not having a sign by denying their application, but
19 let me ask you the next question. What about the issue of
20 why -- why is it -- why are you bringing it up or -- but not
21 you, but staff, bringing up the issue of what happens to the
22 lot afterwards? Do you believe it is part of the section that
23 he's relying on or not?

24 MS. DUCROZ: I'm going to let Delaney answer
25 that.

1 MR. JARO: Okay. Thank you.

2 MS. DUCROZ: I know she has an answer.

3 MS. FINCH: The criteria that the gentleman was
4 referring to before is one set of criteria. The applicant,
5 originally in their application in January, asked for a
6 different set of criteria. Those criteria are in your packet.
7 And the criteria that asks for it -- information about where
8 it's -- what's going to happen to the lot if it's relocated is
9 in the first set of criteria which they are not addressing.
10 What we addressed is asked by the applicant in the application.

11 MR. JARO: I guess what I'm asking, they asked
12 under both criteria, do they not?

13 MS. FINCH: Correct.

14 MR. JARO: And so are you denying it under both
15 criteria?

16 MS. FINCH: Correct.

17 MR. JARO: And you're saying under one criteria
18 you're using, that they haven't told you what's going to happen
19 with the lot, right?

20 MS. FINCH: Correct.

21 MR. JARO: All right. The one that doesn't talk
22 about that, that criteria, that's the one that counsel was
23 talking about, correct?

24 MS. FINCH: Correct.

25 MR. JARO: So would you address the points he

1 made on the criteria that doesn't have -- I mean, I guess the
2 form or the set of the latter.

3 MS. FINCH: So he was addressing the criteria
4 under criteria 1, which has four subsections, and a, and c, and
5 d were found not to be in compliant. The historic value
6 independent of its physical location, the idea behind that
7 criteria is that it has significance that supports that it's so
8 significant outside of its location that it could be protected,
9 or it could be -- it could be a landmark on its own, that it
10 has a historic significance on its own.

11 MR. JARO: What about whether it's an adjective
12 on the last criteria on the significance? What does the
13 criteria say? Does he have to prove it? I mean -- you
14 remember his point? I guess it's an adjective.

15 MR. CHAIRMAN: With respect to diminish?

16 MR. JARO: Yeah.

17 MR. CHAIRMAN: Significantly diminishing.

18 MR. JARO: Was he correct? I'm not asking if
19 he's correct in his analysis --

20 MR. CHAIRMAN: Sure.

21 MR. JARO: -- but was he correct in his
22 determination that it does say "significant"?

23 MS. FINCH: If located in a historic district,
24 can be located without significantly diminishing the integrity
25 of the historic district in which it is located.

1 MR. JARO: And your position is that one house
2 out of how many would be a significant detriment to the
3 historical district?

4 MS. FINCH: Correct. That the contributing
5 structures have been identified as significant to the
6 district's character.

7 MR. JARO: So the removal of one would be
8 significant?

9 MS. FINCH: Correct.

10 MR. JARO: Okay.

11 MR. CHAIRMAN: Other questions of staff?
12 Questions of the applicant?

13 MR. KIRWIN: I believe I had a few more seconds
14 left, if I could --

15 MR. CHAIRMAN: Yes, you still have time
16 remaining. Go ahead.

17 MR. KIRWIN: As to the independent historical
18 significance, I'd like to ask staff this question. If we were
19 asking to move this structure back to its original location at
20 502 West 20th Street, would they stand up here and say that's
21 not permissible, because it doesn't have independent historical
22 significance to its original location? They can't say that to
23 you, because you either have independent historical
24 significance or you don't. It's like being pregnant; you can't
25 be in between.

1 And so the third criteria deals with where we're
2 moving it to, which is the Denver Harbor area. The first
3 criteria deals with its history; and the fact that they have
4 ignored 30 years of its history, as a historian, I find
5 mind-boggling.

6 And I would like to also address the location
7 significantly diminishing. That question was asked at the
8 Historical Commission meeting. "Has staff ever allowed or ever
9 recommended a structure to be moved," and Ms. Finch says, as
10 long as she's here, she doesn't think that's ever happened. So
11 is this really a criteria that anyone can overcome? It doesn't
12 seem like it is, because she's saying if you move it out of the
13 district --

14 (Bell rang).

15 MR. KIRWIN: -- you're done. Thank you.

16 MS. DAVIS: Mr. Chairman?

17 MR. CHAIRMAN: Yes.

18 MS. DAVIS: I want to make a motion that --

19 MR. CHAIRMAN: Microphone.

20 MS. DAVIS: Mr. Chairman, I'll make a motion
21 that we approve the appeal of the owner and the -- of the
22 applicant, and as such, make a finding that the structure;
23 Number 1, does not have the historic value to the property
24 associated with Houston Heights, because it just got there;
25 that it satisfies the third number, C, that the structure is

1 compatible with Denver Harbor, which is what they agreed to,
2 and so that satisfies that Number C; and Number D, that it can
3 be relocated without significantly diminishing the historic
4 district. So I would make a motion that we approve the appeal,
5 because it fits -- it satisfies each of those four areas within
6 Number 1.

7 MR. CHAIRMAN: Do we have a second?

8 MR. EDMINSTER: Second.

9 MR. CHAIRMAN: Second, Mr. Edminster.

10 Discussion?

11 MR. BRAVE: Yeah. I think that when the
12 district was created, and whether it's been 30 years there and
13 42 years here has some weight, but I don't know how much that
14 determines the outcome of an application like that. I think
15 that when we, as the Commission, start determining what's
16 historical and what's not, I think we're making a mistake in
17 crossing a boundary we probably shouldn't cross, and so I'm not
18 very comfortable with overturning it, although motion, a second
19 has been made. Because the motion implies that this may not be
20 a historical structure, which has been determined as such by
21 another body that knows more than we do about these things. My
22 comment.

23 MR. CHAIRMAN: Any other comments? Now, all
24 those in favor of the motion by show of hands? 1, 2, 3, 4, 5.

25 Those opposed by same? 1, 2, 3, 4, 5, 7, 8, 9,

1 10. Any abstentions? Motion fails. So with respect to the --
2 yeah, the appeal stands. I mean, the appeal fails and the
3 findings of the Historic Commission stands -- or do we need to
4 make --

5 MS. DAVIS: Yes, you do.

6 MR. CHAIRMAN: Do we? Okay.

7 MS. DAVIS: You need to take an action.

8 MR. CHAIRMAN: Okay. I apologize. Thank you.

9 MR. GARZA: (Inaudible).

10 MR. CHAIRMAN: Of the Historic Commission?

11 MR. GARZA: Of the Historic Commission.

12 MR. CHAIRMAN: Motion by Garza.

13 MR. BRAVE: I will second.

14 MR. CHAIRMAN: Second by Brave. All those in
15 favor by a show of hands? 1, 2, 3, 4, 5, 6, 7, 8, 9. Opposed
16 by same? 1, 2, 3, 4, 5. Motion carries. It is -- the
17 findings of the Historic Commission are upheld on this appeal.

18 (Off the record).

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REPORTER'S CERTIFICATION
COUNCIL CHAMBER, CITY HALL ANNEX
HOUSTON PLANNING COMMISSION
THURSDAY, MAY 15, 2014

I, CARLA Y. DAVIS, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the following:

That the transcript of the oral hearing is a
true record of the proceedings and testimony given;

That \$ _____ is the deposition officer's
charges for preparing the original transcript and any copies of
exhibits, charged to Mr. Timothy B. Kirwin.

That a copy of this certificate was provided to
the following parties:

COUNSEL FOR THE APPELLANT:
Mr. Timothy B. Kirwin
RANDLE LAW OFFICE LTD., L.L.P.
820 Gessner
Suite 1570
Houston, Texas 77024

I further certify that I am neither counsel for,
related to, nor employed by any of the parties or attorneys in
the action in which this proceeding was taken, and further that
I am not financially or otherwise interested in the outcome of
the action.

Pursuant to Rule 203 of TRCP, an additional
certificate will be issued.

Sworn to me by this 28th day of May,



Carla Y. Davis
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SUPPLEMENTAL NOTICE OF APPEAL TO THE CITY COUNCIL OF THE CITY OF
HOUSTON FROM A VOTE BY THE HOUSTON PLANNING COMMISSION TO
UPHOLD THE HOUSTON ARCHEOLOGICAL AND HISTORICAL COMMISSION'S
DENIAL OF A CERTIFICATE OF APPROPRIATENESS TO RELOCATE A
STRUCTURE AT 1815 CORTLANDT STREET (HISTORIC DISTRICT: HOUSTON
HEIGHTS EAST).

To: Anna Russell, City Secretary (via hand delivery); City of Houston; S. Omar Izfar, Assistant City Attorney (via email with attachments but without cd-rom of video),

From: Jeremy McFarland, Brick Moon Design (Applicant) for Laura Menafee (Owner)

Drafted by: Timothy Kirwin, representative of Applicant and Owner 

Re: Supplemental Appeal Notice

Date: July 14, 2014

Please accept this Supplemental Notice of Appeal which incorporates by this reference every aspect of the original Appeal Notice filed by Applicant and Owner on Monday, July 7, 2014. Please attach this Supplemental Notice of Appeal to the Applicant and Owner's original appeal. Both the original appeal and this supplemental appeal should be submitted together to the City Council.

1. Per the letter dated July 11, 2014, by Assistant City Attorney, S. Omar Izfar, I provide the following correction to his letter:

- Mr. Izfar states that we submitted our Notice of Appeal to the City Secretary on Wednesday, July 9th. That is incorrect. The Notice of Appeal was submitted via hand-delivery to the City Secretary on Monday, July 7th.

2. Per the letter dated July 11, 2014, by Assistant City Attorney, S. Omar Izfar, I provide the following supplemental materials to our original appeal:

- A copy of the presentation materials submitted to the Houston Planning Commission by staff;
- A copy of Applicants' presentation materials, including copies of emails from my cell phone shown to the Planning Commission;
- A copy of the video and audio recording of the Planning Commission meeting; and

- A copy staff's presentation materials at the Planning Commission.

If you have any questions, please telephone me at 281-657-2000.

Thank you,



Tim Kirwin
Randle Law Office
820 Gessner Road, Suite 1570
Houston, Texas 77024



City of Houston Planning Commission Agenda Packet

This online document is preliminary and not official. It may not contain all the relevant materials and information that the Planning Commission will consider at its meeting. The official agenda is posted at City Hall 72 hours prior to the Planning Commission meeting. Final detailed packets are available online at the time of the Planning Commission meeting.

Houston Planning Commission

AGENDA

May 15, 2014

Meeting to be held in
Council Chamber, City Hall Annex
2:30 p.m.

Call to Order

Director's Report

- **Approval of the May 1, 2014 Planning Commission Meeting Minutes**
- I. **Platting Activity (Subdivision and Development plats)**
 - a. Consent Subdivision Plats (Peter Klomparens)
 - b. Replats (Peter Klomparens)
 - c. Replats requiring Public Hearings with Notification (Kimberly Bowie, Teresa Geisheker, Dorianne Powe-Phlegm and Aracely Rodriguez)
 - d. Subdivision Plats with Variance Requests (Muxian Fang, Mikalla Hodges and Dipti Mathur)
 - e. Subdivision Plats with Special Exception Requests
 - f. Reconsiderations of Requirement (Muxian Fang, Mikalla Hodges and Pete Klomparens)
 - g. Extension of Approvals (Marlon Connley)
 - h. Name Changes (Marlon Connley)
 - i. Certificates of Compliance (Marlon Connley)
 - j. Administrative
 - k. Development Plats with Variance Requests (Kimberly Bowie)
- II. **Establish a public hearing date of June 12, 2014**
 - a. Broadmoor Addition partial replat no 1
 - b. Craig Woods partial replat no 10
 - c. Hawthorne Place Addition Sec 8 partial replat no 1
 - d. Hollywood Gardens partial replat no 3
 - e. Langwood partial replat no 1
 - f. Melody Oaks partial replat no 9 and extension
 - g. Riverway Estates Sec 1 partial replat no 3
 - h. West Court partial replat no 2
 - i. Westheimer Gardens partial replat no 2
- III. **Public Hearing for a HAZMAT permit application for S&S Plating Company, 6505 Dixie Drive (Ryan Medlen)**
- IV. **Consideration of a Hotel Motel Variance for a Hilton Home 2 Haik located at 1106 Sherwood Forest Drive (Pete Klomparens)**
- V. **Consideration of an Appeal of the Decision of the Houston Archaeological and Historical Commission on April 24, 2014 for a Certificate of Appropriateness for:**
 - a. 1815 Cortlandt Street – Houston Heights Historic District East (Delaney Harris-Finch)
 - b. 1817 Cortlandt Street – Houston Heights Historic District East (Diana DuCroz)
- VI. **Public Comment**
- VII. **Adjournment**

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION
PLANNING & DEVELOPMENT DEPARTMENT

Planning Commission
Meeting Date: 05/15/2014

ITEM: V.a

APPLICANT: Timothy Kerwin, for Jeremy McFarland, Brickmoon Design, and Laura Menefee, owner
PROPERTY ADDRESS: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights Historic District East

Project Summary:

On March 12, 2014, the applicant requested a Certificate of Appropriateness (COA) to relocate a contributing residence at 1815 Cortlandt Street in the Houston Heights Historic District East to a location outside of the district in the Denver Harbor neighborhood.

The application was deferred by the Houston Archaeological and Historical Commission (HAHC) at the February 13 and March 27, 2014 HAHC meetings. At their April 24, 2014 meeting, the HAHC reviewed the applicant's request and found that the relocation request did not meet **Criteria (1)(a, c, and d)** or **Criteria (4)(1, 2 and 3)** for approval found in Chapter 33-243(a). The HAHC voted 5 to 2 to deny the COA.

In accordance with Chapter 33-253, the applicant is appealing this decision to Planning Commission.

Charge to the Planning Commission:

For the relocation of a contributing structure within a historic district to be approved, the applicant must satisfy at least one of four sets of relocation criteria found in Chapter 33-243(a). The application was reviewed and considered under criteria (1) and (4).

The HAHC denied the relocation request, accepting staff's findings that the project did not meet Criteria (1) or (4). The Planning Commission may find in favor of the appellant only if it finds that the applicant has demonstrated that the project meets all criteria for approval.

Project Description:

The residence at 1815 Cortlandt is an example of transitional vernacular residential architecture. The physical form, raised foundation, and architectural details of the house have characteristics of 1920s and '30s Heights residential architecture, yet the structural materials are those that were available at the time the residence was construction in 1941. The one-story single-family bungalow features a gable roof; a projecting front gable bay; and a small applied front stoop and porch roof. The house is in near-to-original condition. The containing block is one of the most architecturally diverse and intact historic residential blocks, with 18 of 22 structures classified as contributing.

At the time of the Houston Heights East Historic District Inventory the residence was classified as 'potentially contributing' due to the residence having vinyl siding and aluminum windows. These alterations are considered reversible when historic housing is being inventoried. If an owner wishes to appropriately correct such alterations, the city provides property tax exemptions to do so with an approved COA.

In the Inventory, the residence was listed as a bungalow constructed circa 1920. Subsequent research supports that the structure was constructed in 1941. The historic period of significance for the Houston Heights is the 1890s-1940s. However, it is not required for structures to have a construction date within the period of significance to be classified as contributing. The Ordinance definition of 'contributing' is a building that reinforces, or that has conditions, which, if reversed, would reinforce, the cultural, architectural or historical significance of the historic district in which it is located, and that is identified as contributing upon the designation of the historic district.

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

Attachment B: Applicant's written request for appeal.

Attachment C: Applicant supplemental appeal materials

Attachment D: Public comment received regarding the appeal.

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION
PLANNING & DEVELOPMENT DEPARTMENT

Planning Commission
Meeting Date: 05/15/2014
ITEM: V.a

APPLICANT: Timothy Kerwin, for Jeremy McFarland, Brickmoon Design, and Laura Menefee, owner
PROPERTY ADDRESS: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights Historic District East

The subject residence was relocated to 1815 Cortlandt in 1970 from 502 W. 20th Street in the Houston Heights (less than one mile). Relocated structures are not exempt from being classified as contributing if the structure's historic character is compatible with the district. Houston historic districts contain many structures that have been relocated from their original sites. The original and current location of the subject residence is within the 1891 City of Houston Heights plat. Although relocated, the subject structure remains in its original historic neighborhood.

All current information continues to support a contributing classification.

Timeline of COA Applications for the Property:

- **December 12, 2013 – HAHC denied demolition**
A potential buyer of the property was denied a demolition COA for the residence by the HAHC. The decision supported that the residence has historic value and reaffirmed the contributing classification.
- **January 9, 2014 – Planning Commission appeal – denial upheld**
- **January 15, 2014 – New applicant for relocation**
A new applicant (potential property owner representative) began discussions with staff the option to propose relocating the residence. Staff informed the applicant that relocation of a contributing structure outside of the historic district was not recommended as it is equivalent to demolition and that such action had recently been denied by both the HAHC and Planning Commission.
- **January 29, 2014 – Relocation application submitted**
A COA application for the relocation was submitted and the applicant requested consideration under the same criteria as the demolition application (unusual and compelling circumstance).
- **February 4, 2014 – Application review discussion**
Staff discussed the relocation criteria and the period of significance for the district with the applicant. Staff informed the applicant that the information provided in the relocation application did not provide new information that had not already been reviewed for the demolition application.
- **February 11, 2014 – Staff recommendation provided – denial**
Staff informed the applicant that the unusual and compelling circumstances criterion was not satisfied. The applicant was informed that both staff and the director's office recommended withdrawing the application as no new evidence was presented to indicate compliance with the unusual and compelling circumstance criteria and a similar outcome as December was predicted, however, it was their choice on how to proceed.
- **February 13, 2014 – HAHC deferred relocation**
Applicant presented new materials at the HAHC meeting and requested consideration under relocation criteria (1) instead of criteria (4). The HAHC deferred the item to allow time for proper documentation to be submitted and reviewed. HAHC expressed concern about protection for the historic residence if relocated out of the district and inquired about whether or not it may qualify for an individual Landmark designation.
- **February 26, 2014 – Current applicant acquired ownership of the property**
- **March 3, 2014 – Staff provided criteria (1) and Landmark designation criteria information**
- **March 12, 2014 – Additional COA documents and first page of Landmark application form submitted**
- **March 21, 2014 – Staff determined sufficient documentation was not provided**

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

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CITY OF HOUSTON

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PROPERTY ADDRESS: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights Historic District East

Staff informed the applicant that sufficient documentation was not provided to review with criteria (1) and again provided a list of documentation to establish the approval criteria and Landmark designation.

- **March 26, 2014 – Staff recommendation provided - denial**

Staff informed the applicant that the current documentation did not satisfy the approval criteria; applicant was offered the opportunity to request deferral from the Commission at the March HAHC meeting.

- **March 27, 2014 – HAHC deferred relocation**

Applicant requested a deferral from the HAHC to provide further documentation to establish compliance.

- **April 9, 2014 – Additional COA documents submitted**

- **April 22, 2014 – Staff recommendation provided – denial**

Staff informed the applicant criteria (1) had not been satisfied. The applicant was also informed that no information had been provided to support the Landmark designation criteria.

- **April 24, 2014 – HAHC denied relocation**

The HAHC accepted staff's recommendation and denied the applicant a relocation COA as they found criteria (1) and (4) were not satisfied per the review of the criteria by staff. The applicant and owner were present at the hearing and spoke in favor of the granting the COA.

- **April 27, 2014 – Applicant requested Landmark designation info**

Applicant inquired by email about how the owner of the Denver Harbor property in which the residence was proposed to be relocated could proceed to apply for Landmark/Protected landmark status.

- **April 28, 2014 – Landmark / Protected Landmark info provided**

Staff restated information provided to the applicant on March 3rd regarding Landmark designation criteria and provided further information regarding the Landmark application process.

- **May 2, 2014 – Appeal notice filed by the applicant**

Basis for the Houston Archaeological and Historic Commission's decision:

Within city historic districts, the relocation of contributing structures must be approved by HAHC. Relocation of contributing structures is reviewed according to at least one of four sets of criteria found in Chapter 33-243(a) of the Houston Code of Ordinances. See pages 4-5 for approval criteria and staff's findings. These approval criteria are similar to the ones prepared by the National Park Service and are used in jurisdictions through the country. In order to issue a COA, the HAHC must find that all three criteria of Chapter 33-247(a)(1); **or** criterion (2); **or** all four criteria in (3); **or** all three criteria in (4) is met. See pages 4-5 for approval criteria.

Houston Historic Districts are significant as a collective whole; their historic character defined by the contributing structures. Contributing structures should not be removed to make way for new construction. A reduction in number of contributing structures dilutes and compromises the historic value of the district. The high standards of both the demolition and relocation criteria reflect this preservation principle. All evidence available to date supports that the transitional bungalow is compatible with, and contributes to, the district.

The HAHC voted 5-2 to deny the application on the basis that it did not meet Criteria (1)(a, c, and d) or Criteria (4)(1, 2 and 3). See section below for further elaboration on the approval criteria and HAHC findings.

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

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CITY OF HOUSTON

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PLANNING & DEVELOPMENT DEPARTMENT

Planning Commission
Meeting Date: 05/15/2014

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APPLICANT: Timothy Kerwin, for Jeremy McFarland, Brickmoon Design, and Laura Menefee, owner
PROPERTY ADDRESS: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights Historic District East

maintenance or improvement of the property exceed its fair market value;

- (2) That the property cannot be adapted for any other use, whether by the current owner, by a purchaser or by a lessee, that would result in a reasonable return;
- (3) That efforts to find a purchaser or lessee interested in acquiring the property and preserving it have failed; and
- (4) If the applicant is a nonprofit organization, determination of an unreasonable economic hardship shall instead be based upon whether the denial of a certificate of appropriateness financially prevents or seriously interferes with carrying out the mission, purpose, or function of the nonprofit corporation

(4) The applicant has established unusual or compelling circumstances pursuant to the criteria of section 33-247(d):

- (1) That current information does not support the historic or archaeological significance of this building, structure or object or its importance to the integrity of an historic district, if applicable;
All current information supports the structure's historic significance as a Houston Heights, 1940s transitional bungalow. The removal of the original materials and 1970s relocation do not support a non-contributing classification. The architectural character and construction date are compatible with, and contribute to, the Houston Heights Historic District East.
- (2) Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans have on the architectural, cultural, historical or archaeological character of the surrounding area; and
Future plans to construct a new single-family residence on the property have been indicated. Further information regarding the new construction has not provided.
- (3) Whether reasonable measures can be taken to save the building, structure or object from further deterioration, collapse, arson, vandalism or neglect.
No information has been provided indicating there is any present threat to the structure requiring any such measures to be taken.

Applicant's Grounds for Appeal:

See Attachment B (appeal letter) and Attachment C (supplemental appeal materials) for the applicant's grounds for appeal. In addition to asserting that the relocation application satisfies Criteria (1) criteria, the applicant's materials claim procedural defects. Below are staff's comments on these procedural defects as stated by the applicants' attorney:

1) The HAHC did not make any findings.

At the April meeting, the HAHC voted 5-2 to accept staff's findings and recommendation of denial.

2) The HAHC did not consider the current needs of the applicant or exhibit sensitivity to the property owner's financial condition.

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

Attachment B: Applicant's written request for appeal.

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Sec 33.240(b) allows the HAHC flexibility in applying the criteria in cases in which applicants do not have the financial means to comply with a strict application of the rules. The applicant has the burden of proof in demonstrating the application meets criteria and demonstrating 'current needs' and 'financial condition.'

If the applicants wished to have HAHC consider their personal financial condition in evaluating this project, they should have made this assertion to HAHC and submitted documentation in support of it. No documentation or evidence of their 'current needs' or 'financial condition' was provided to the HAHC for evaluation, nor was the issue even raised before HAHC.

Basis for the Applicant's appeal:

Sec. 33-253 – Appeal

(a) An applicant aggrieved by a decision of the HAHC with respect to any certificate of appropriateness may appeal to the planning commission by filing a written notice of appeal, stating the grounds for the appeal, with the director within ten days following the date the HAHC renders its decision.

(b) The planning commission shall consider the appeal at its first regularly scheduled meeting for which required notice can be given. The commission shall consider the application, the findings of the HAHC and any evidence presented at the meeting at which the appeal is considered. The planning commission shall reverse or affirm the decision of the HAHC based upon the criteria applicable to the certificate of appropriateness. The decision of the commission shall be final. If the commission does not make a decision on the appeal within 30 days following the commission's hearing on the appeal, the decision of the HAHC with respect to the application for the certificate of appropriateness shall be deemed affirmed.

(c) An applicant aggrieved by the decision of the planning commission on an appeal from a decision of the HAHC may appeal to the city council. The city council shall consider the appeal at its first regularly scheduled meeting for which the required notice can be given. The city council shall consider the appeal under the provisions of Rule 12 of Section 2-2 of this code. At the conclusion of the city council's review of the matter, the city council shall reverse or affirm the decision of the planning commission. The decision of the city council shall be final and exhaust the applicant's administrative remedies.

(d) The director shall provide the applicant with notice of the time and place of the meeting at which the appeal will be considered by mail no less than ten days before the date of the meeting.

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

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**CERTIFICATE OF APPROPRIATENESS
APPLICATION SUMMARY**

Applicant: Jeremy McFarland, Brickmoon Design for Laura Menefee, owner

Property: 1815 Cortlandt, tracts 10 and 11a, block 105, Houston Heights Subdivision. The property includes a historic one-story wood frame single-family residence situated on a 7,920 square foot (60' x 132') interior lot.

Significance: Contributing bungalow, constructed 1941, located in the Houston Heights Historic District East.

Proposal: Relocation – Move the contributing residence outside of the Houston Heights East Historic District to 1026 Lathrop Street, lots 34, 35, and 36, block 24. The property is a vacant 9,375 square foot (75'x125') interior lot in the Denver Harbor neighborhood.

Project History:

- December 2013 – A previous applicant requested a demolition COA for the residence disputing the historic value and contributing classification under the unusual or compelling circumstances criterion. The HAHC denied the COA.
- January 9, 2014 – The previous applicant appealed to the Planning Commission who upheld the decision of the HAHC to deny the demolition COA.
- February 13, 2014 – The current applicant requested a relocation COA under the same criterion as the demolition application (unusual and compelling circumstance) disputing the historic value and contributing classification. At the meeting, the applicant presented new materials and requested consideration of the application under criterion (1) instead of criterion (4). The HAHC deferred the item to allow time for proper documentation to be submitted to, and reviewed by, staff.
- March 27, 2014 – The applicant requested a deferral from the HAHC to provide further documentation to establish compliance with the approval criteria, as the documentation provided thus far was found not to meet criteria or support a recommendation of approval.

See staff relocation review and detailed project description on pp. 4-20.

See Attachment A – applicant COA materials on pp. 21.

Public Comment: One in favor, three opposed. See Attachment B.

Civic Association: No comment received.

Recommendation: Denial - does not satisfy criteria

HAHC Action: Denied

financially prevents or seriously interferes with carrying out the mission, purpose, or function of the nonprofit corporation

(4) The applicant has established unusual or compelling circumstances pursuant to the criteria of section 33-247(d):

(1) That current information does not support the historic or archaeological significance of this building, structure or object or its importance to the integrity of an historic district, if applicable;

All current information supports the structure's historic significance as a Houston Heights, 1940s transitional bungalow. The removal of the original materials and 1970s relocation do not support a non-contributing classification. The architectural character and construction date are compatible with, and contribute to, the Houston Heights Historic District East.

(2) Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans have on the architectural, cultural, historical or archaeological character of the surrounding area; and

Future plans to construct a new single-family residence on the property have been indicated. Further information regarding the new construction has not provided.

(3) Whether reasonable measures can be taken to save the building, structure or object from further deterioration, collapse, arson, vandalism or neglect.

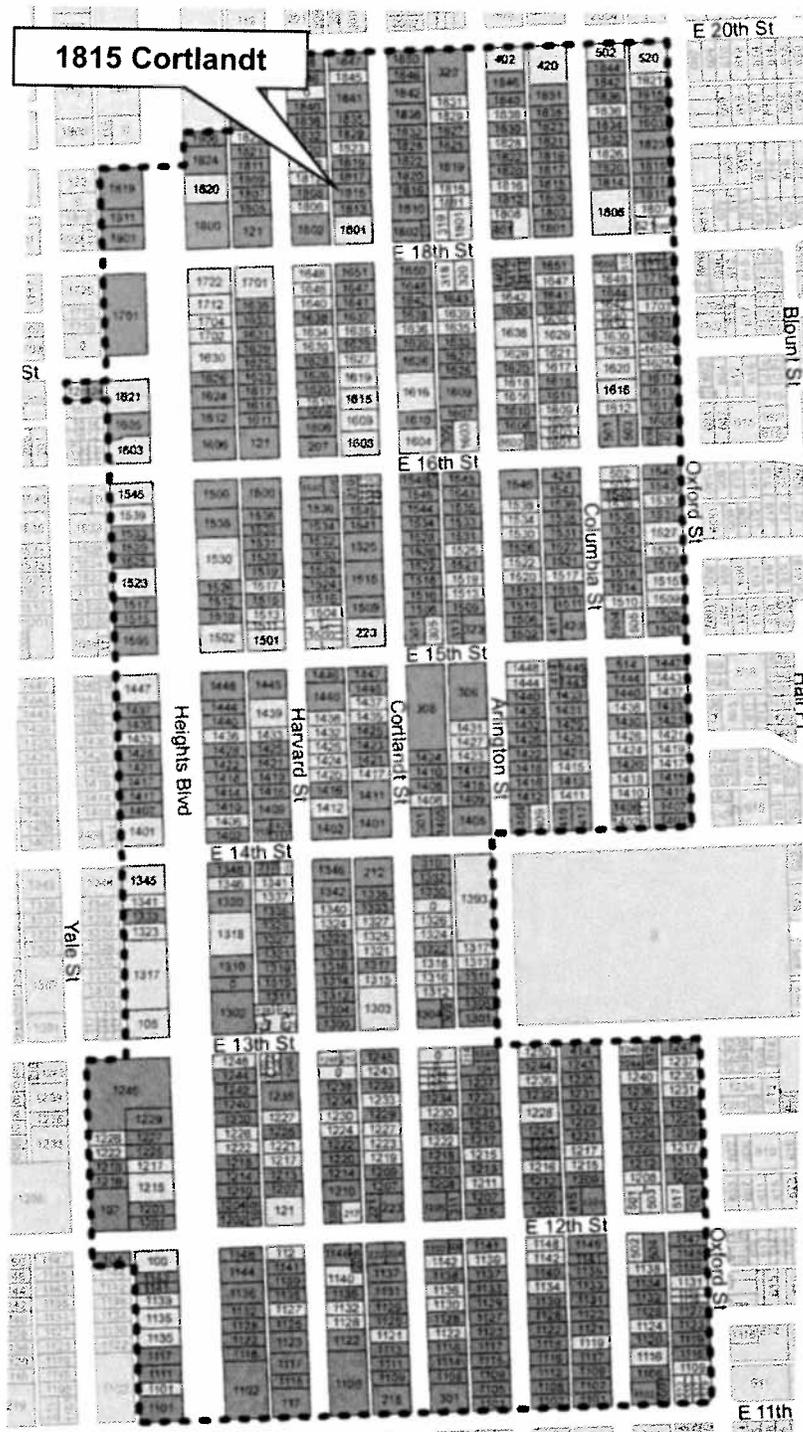
No information has been provided indicating there is any present threat to the structure requiring any such measures to be taken.

Building Classification

-  Contributing
-  Non-Contributing
-  Park

PROPERTY LOCATION

HOUSTON HEIGHTS HISTORIC DISTRICT EAST



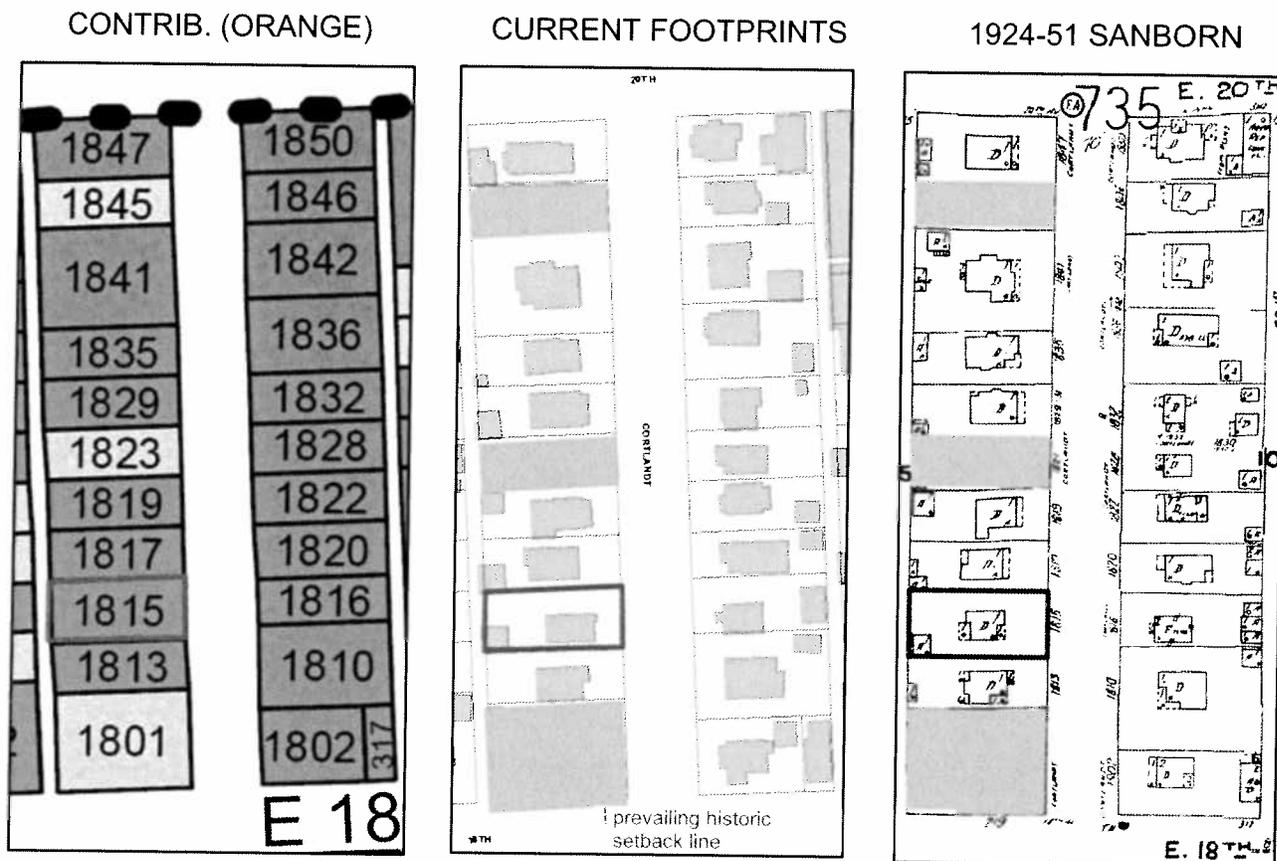
CURRENT PHOTO



1978 TAX RECORD PHOTO



1800 BLOCK OF CORTLANDT



1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1802 Cortlandt – Contributing – c. 1915



1810 Cortlandt – Contributing – c. 1915

1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1816 Cortlandt – Contributing – c. 1930



1820 Cortlandt – Contributing – c. 1915



1822 Cortlandt – Contributing – c. 1920



1828 Cortlandt – Contributing – c. 1920



1832 Cortlandt – Contributing – c. 1920



1836 Cortlandt – Contributing – c. 1920

1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1842 Cortlandt – Contributing - c. 1910



1846 Cortlandt – Contributing – c. 1920



1850 Cortlandt – Contributing - 1941



1847 Cortlandt – Contributing – c. 1910



1841 Cortlandt – Contributing - 1921



1835 Cortlandt – Contributing - 1906

1800 BLOCK OF CORTLANDT CONTRIBUTING STRUCTURES



1829 Cortlandt – Contributing – c. 1920



1819 Cortlandt – Contributing – c. 1920



1817 Cortlandt – Contributing – c. 1920



1815 Cortlandt – Contributing – 1941 (subject)



1813 Cortlandt – Contributing – c. 1920

CONTRIBUTING STRUCTURES WITH FEATURES SIMILAR TO 1815 CORTLANDT

(flat front facades, stoop porches, applied small gabled porch roofs, simple architectural details)



1511-1513 Arlington – Contributing - c. 1925



1816 Arlington- Contributing- c. 1915



304 E 16th – Contributing - c. 1940



415 E 16th – Contributing – c. 1940



1615-1617 Arlington – Contributing – c. 1920



1414 Heights – Contributing – 1943

CONTRIBUTING STRUCTURES WITH FEATURES SIMILAR TO 1815 CORTLANDT

(flat front facades, stoop porches, applied small gabled porch roofs, simple architectural details)



1136 Heights – Contributing - c. 1940



1418 Columbia – Contributing – c. 1915



1536 Columbia – Contributing – c. 1930



1150 Cortlandt – Contributing – c. 1920



1438 Harvard – Contributing – c. 1930



1115 Oxford – Contributing – c. 1920

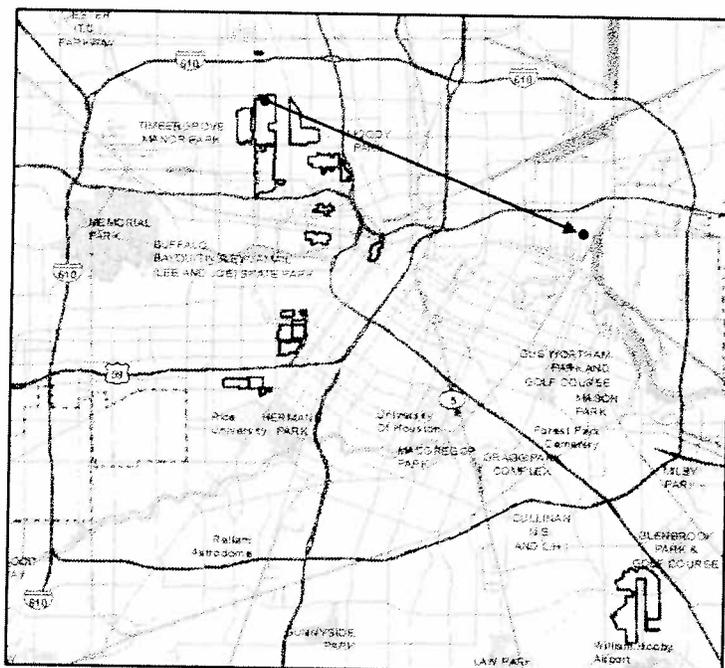


PROPOSED RELOCATION SITE: 1026 LATHROP STREET



Proposed Site – 1026 Lathrop
Lots 34, 35 & 36, Block 24, Denver Harbor
9,375 sf (75'x125') lot

Current Site – 1815 Cortlandt
Tracts 10 & 11A, Block 105, Houston Heights
7,920 sf (60' x 132') lot.





PROPOSED RELOCATION SITE: 1026 LATHROP STREET

Red rectangle indicates proposed relocation site
Yellow numbers correspond to photos on following pages
Blue dots indicate the 3 remaining historic houses on blockface



PROPOSED SITE BLOCKFACE PHOTOS

More neighborhood photos provided by applicant see pp. 43-46

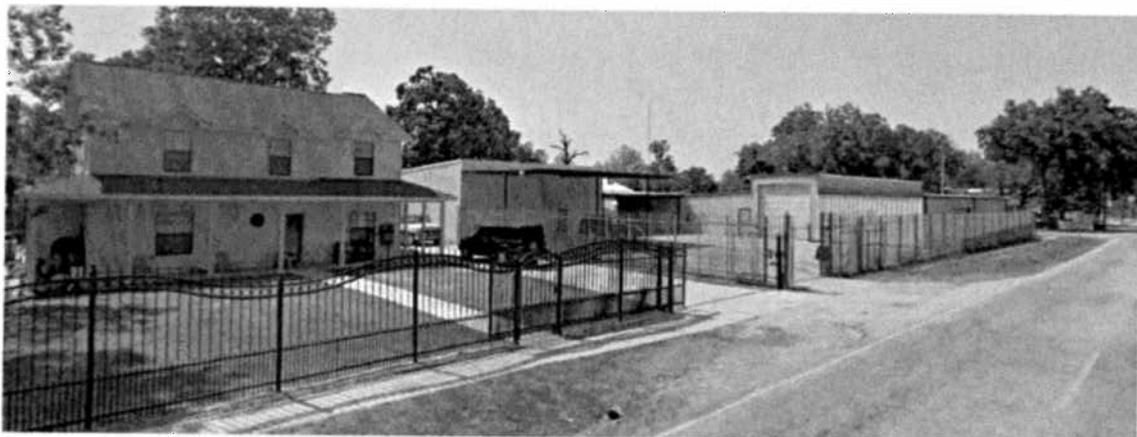
1 – south neighbor (14,400 sf 1980s commercial warehouse)



2 – proposed 9,375 sf relocation site & north neighbor (1,000 sf 1950s residence at rear of lot)



3 – northwest end of block (2,700 sf 2008 residence; series of 1950-80 commercial buildings)



PROPOSED SITE BLOCKFACE PHOTOS

4 – northeast end of block (1,030 sf 1926 residence & 1,000 sf 1928 residence)



5 – across from proposed site (3,250 sf 1970s commercial building)



6 – across from proposed site (1,000 sf 1930s residence facing Gonzales)



7 – southeast end of block (1,600 sf 1930s residence)

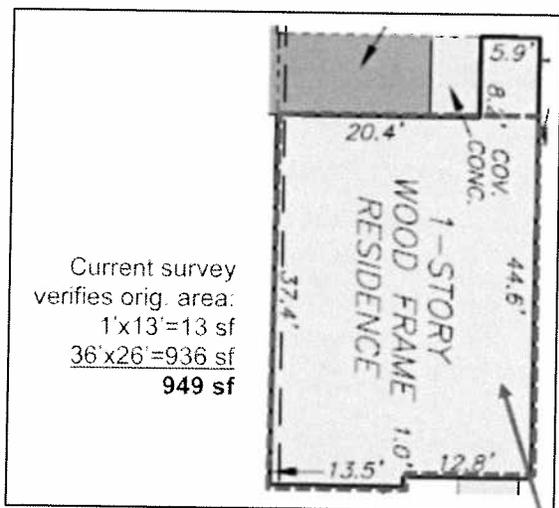


HARRIS COUNTY TAX RECORDS & CURRENT SURVEY

The 949 sf subject structure on Block 92, Lot 1 assessed for \$980 on 10/14/1941

Year 1941 | Lot 1 | Land Value \$160 | Bldg. Permit No. 4159 | Date 10-14-41 | Inspector's Value \$980

1941	Jno. A. Zagst		1	160		4159 10-14-41	980
	Do.		2	190			
	Do.		3	190			
	Do.		4	170			



Map No. _____ Permit No. 4159
 Vol. 20 Page 88 10/14 1941
 Owner A. L. Smalley
 No. 502-10 20th Street or Avenue
 Addition No Ste
 Block 92 Lot 1 to 4
2-5rm fr Size of Building
 wide _____ deep _____ stories _____
 wide _____ deep _____ stories _____
2- gar apt Size of Garage
 wide _____ deep _____ stories _____
 Material: Frame, Brick, Veneer, Stucco.
 Inside Finish: Rough, (Plain, Ornamental, Hardwood, Pine, Plaster.
 Roofing: Slate, Tile, Tin, Shingle, Copper, Composition, Iron, Tar and Gravel, Paper, Asbestos.
 Plumbing: With or Without Bath Room.
 Permit Value, \$: _____
 No. Sq. Ft. _____ Per Sq. Ft. _____
 No. Sq. Ft. _____ Per Sq. Ft. _____
 No. Sq. Ft. 949 Per Sq. Ft. 130
1230
266
984
1941
 Assessed Value of Building \$ 980
 Rendered in name of B Zagst, Jno A

\$1230 = 949sf x \$1.3/sf
(\$980 = adjusted value)

HARRIS COUNTY TAX RECORDS & CURRENT SURVEY

By 1942, 4 structures existed on Block 92, Lots 1-4 (502/506 W 20th)

Harris County
BUILDING ASSESSMENT
Houston, Texas

Map No. _____ Permit No. 4159
Vol. 70 Page 88
10-14-1941

Owner J. A. TAGST
No. 504-1-8-10-20 Street or Avenue
Addition Houston Hts
Block 92 Lot 1 to 4
2-5 room frame houses
2- garages apt

Size of Building
wide 20 deep 26 stories 1
wide 20 deep 26 stories 2

Size of Garage
wide _____ deep _____ stories _____

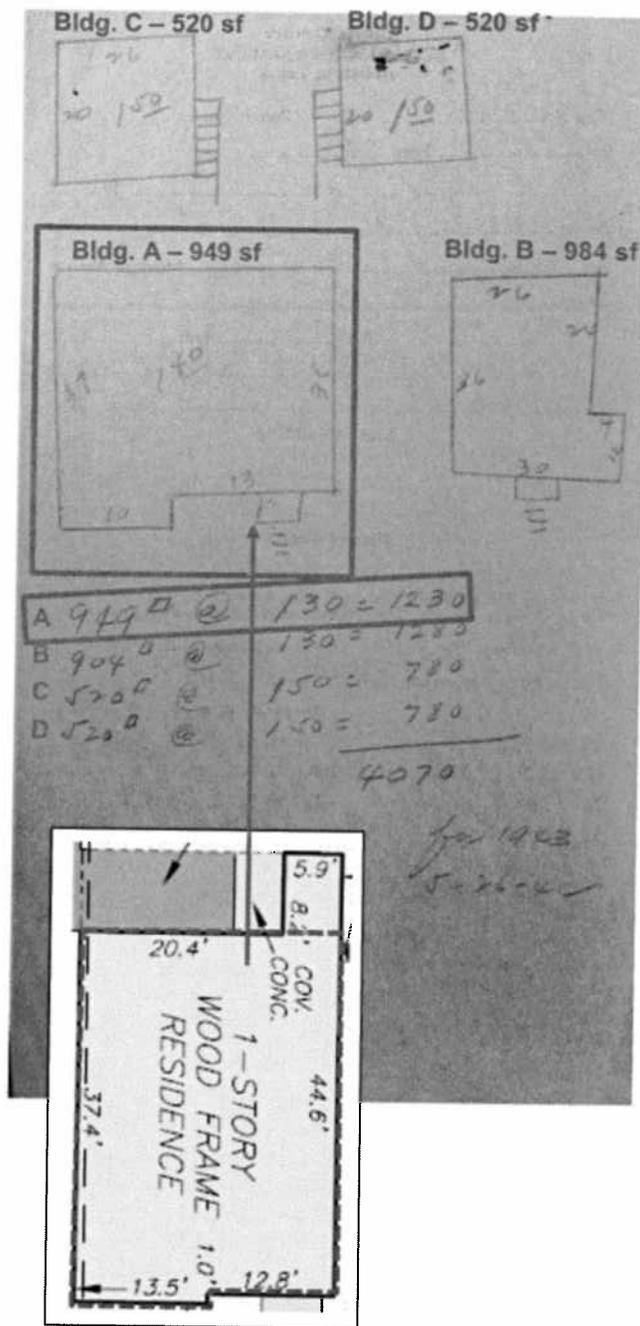
Material: Frame, Brick, Veneer, Stucco, Asbestos.
Inside Finish: Rough, Plain, Ornamental, Hardwood, Pine, Plaster.
Roofing: Slate, Tile, Tin, Shingles, Copper, Composition, Iron, Tar and Gravel, Paper, Asbestos.
Plumbing: With or Without Bath Room.

Permit Value, \$ _____
No. Sq. Ft. 949 Per Sq. Ft. 30
No. Sq. Ft. 904 Per Sq. Ft. 130
No. Sq. Ft. 520 Per Sq. Ft. 150

4070
814
3756
1973 Assessed Value of Building \$ 3760

Rendered in name of Smalley, A. G.

5-42 5M



HOUSTON HEIGHTS EAST HISTORIC DISTRICT DESIGNATION REPORT

Excerpt – Page 4

CITY OF HOUSTON

Houston Archaeological and Historical Commission Planning & Development Dept.

Subdivisions, etc., submit them. The proposed Houston Heights Historic District East qualifies for historic district designation under Criteria 1, 3, 4, 5, 6 and 8.

HISTORY AND SIGNIFICANCE OF HOUSTON HEIGHTS AND HOUSTON HEIGHTS HISTORIC DISTRICT EAST

The large urban neighborhood of Houston Heights covers approximately 1,756 acres just two-and-one-half miles northwest of Downtown Houston. One of the first planned suburbs in the state, Houston Heights has retained its architectural and civic identity to an unusual degree despite the subsequent loss of historic buildings and adverse development. This has been accomplished in spite of its location in one of the fastest growing cities in the United States. Houston Heights presents a Whitman's Sampler of turn-of-the-century architectural styles. Several notable late-Victorian mansions and substantial early 20th-century public, ecclesiastical, fraternal and commercial buildings serve as the anchors of the neighborhood. Nevertheless, the real strength of Houston Heights rests in its wide array of essentially vernacular, middle-class, and domestic architecture of the period 1893-1941.

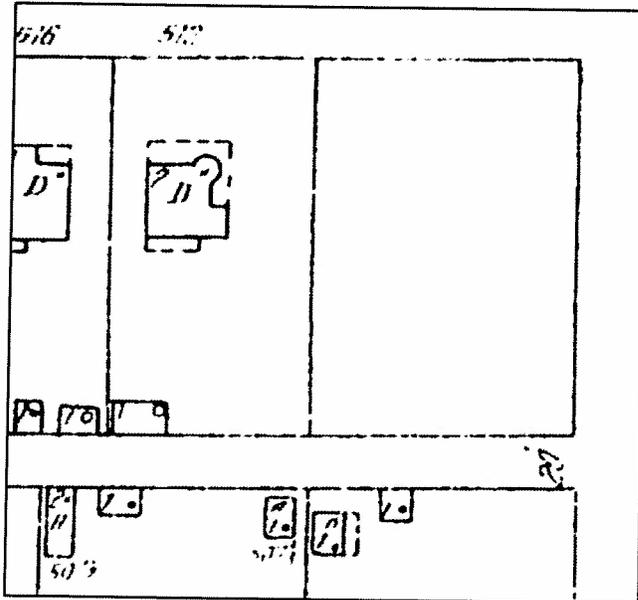
The one and two-story houses and cottages are usually of frame construction, and were constructed in a variety of styles. Influences from the Colonial Revival, Queen Anne, Folk Victorian and Bungalow styles clearly dominate, but noteworthy examples of other styles are also found, including Gothic, Neo-Gothic, Mission Revival, Renaissance Revival, Prairie, Craftsman Bungalow, English Bungalow and Art Deco. Furthermore, in spite of tremendous pressure for development, the effects of several periods of decline, and a lack of zoning laws, the relationship of the buildings within Houston Heights has survived. A majority of the area still consists of tree lined streets of older residences, punctuated by occasional churches, schools and commercial buildings. Yet more and more of the historic cottages are being demolished or moved away to other areas of Houston, and the historic fabric of Houston Heights is being replaced with large "MacMansions," – not only a trend in Houston but a national trend where there is no historic preservation review. The Houston Heights Association has become very concerned with this trend, and once historic district designation is adopted, anticipate that the education provided through the city's Historic Preservation Ordinance will benefit the residents and developers alike. The ultimate objective is to accomplish appropriate restoration and preservation of the existing historic resources, which is vital not only to insure the retention of the status of architectural significance of Houston Heights, but also to encourage new development that only replaces "non-contributing, non-historic" sites (shown on the attached inventory) and which should be compatible with and reinforces the architectural significance. The objective is to encourage:

- 1) Appropriate restoration of the remaining, historic buildings that have been classified as "potentially contributing" where architectural integrity has been diminished and should be returned as well as preserving the "contributing" buildings where their architectural integrity has been continuously maintained or it has been restored by appropriate restoration -- shown on the proposed historic district inventory (attached);
- 2) Appropriate additions to the historic building, which are subordinate and oriented to the rear and although they are attached, the additions do not alter the historic roof shape, and the additions appear as a secondary building behind the historic building, including the orientation of parking and parking structures to the side and rear of historic buildings; and
- 3) New construction that only replaces buildings that have been identified as "non-historic, non-contributing" on the inventory of the proposed historic district (attached), but moreover, the new construction is reflective of the context, placement and elements of the types and styles of



SANBORN FIRE INSURANCE MAPS & HISTORIC TAX PHOTOS

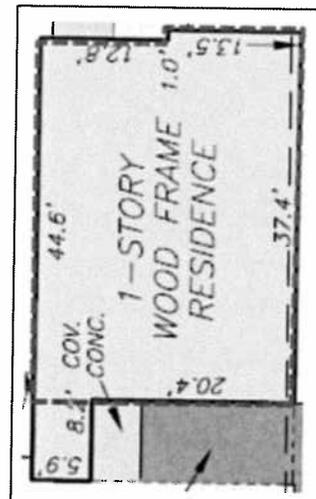
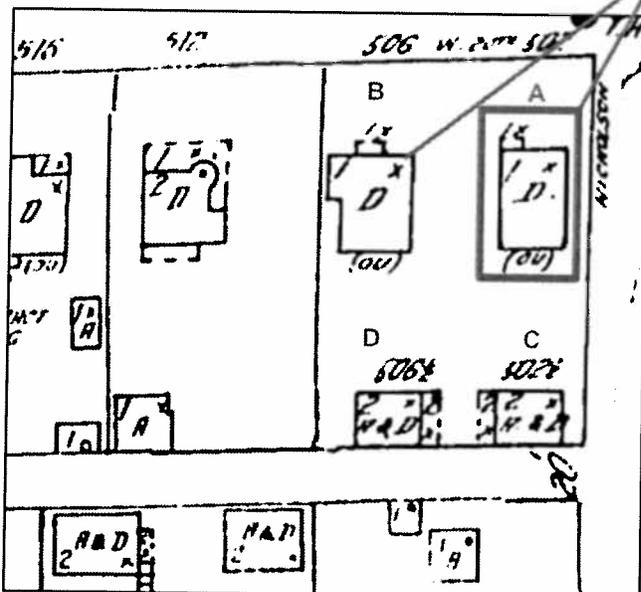
1924-1950 – property vacant



September 1967 Tax Photo
(Edge of subject structure at left side of photo)



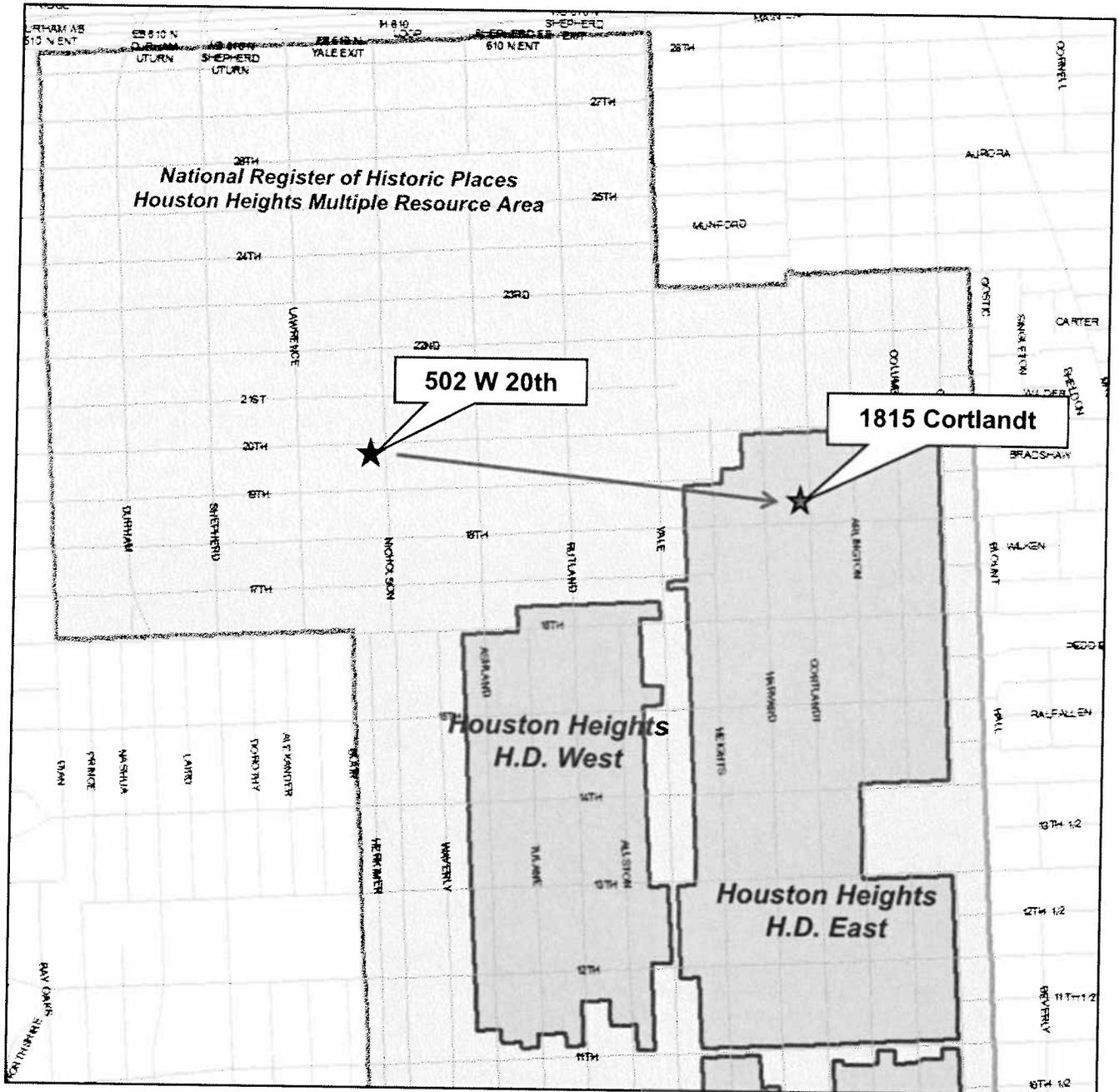
1924 – Feb. 1951 – residences on property





1970 RELOCATION MAP

Original Houston Heights plat / MRA (orange) & Heights Historic Districts (blue)



PROJECT DETAILS

Description: The residence at 1815 Cortlandt is an example of transitional vernacular residential architecture. The physical form, raised foundation, and architectural details of the house have characteristics of 1920s and '30s residential architecture, yet the structural materials are those that were available at the time of construction in the 1940s. An inspection by a Senior Building Inspector verified old-growth wood and pre-war construction framing methods. The one-story single-family bungalow features a gable roof; a projecting front gable bay; and a small applied front stoop and porch roof. There is a small addition at the rear and a portion of the attic has been converted into living space; the house is otherwise in near-to-original condition. The containing block is one of the most architecturally diverse and intact historic residential blocks, with 18 of 22 structures classified as contributing.

At the time of the Houston Heights East Historic District Inventory the residence was classified as 'potentially contributing' due to the residence having vinyl siding and aluminum windows (these alterations are considered reversible when historic housing is being inventoried). In the Inventory, the residence was listed as a bungalow constructed circa 1920. Subsequent research supports that the structure was constructed in 1941 at 502 W. 20th Street in the Houston Heights, and was relocated to 1815 Cortlandt in 1970. All current information continues to support a contributing classification.

Significance: The Houston Heights East Historic District was designated by City Council in February 2008. Established in 1891, the Houston Heights was incorporated as an independent city in 1896, and was annexed to the City of Houston in 1918. Houston Heights maintains a unique identity and distinctive, self-contained "small town" feel. The district is predominantly comprised of small 19th century one-story cottages, larger two-story Victorian-era homes, and numerous early 20th century bungalows (including the subject residence). The district is contained within the boundaries of the 1983 Multiple Resource Area (MRA) National Park Service designation honoring the concentration of historic buildings and early history of the Houston Heights as an independent municipality. The original and current location of the residence is in National Register of Historic Places Houston Heights MRA.

The historic period of significance for the Houston Heights is the 1890s-1940s. The Houston Heights Historic District East Designation Report it states, "the real strength of Houston Heights rests in its wide array of essentially vernacular, middle-class, and domestic architecture of the period 1893-1941" (p. 18). However, it is not required for structures to have a construction date prior to 1941, nor within the period of significance, to be classified as contributing. The definition of a contributing is a building that reinforces, or that has conditions, which, if reversed, would reinforce, the cultural, architectural or historical significance of the historic district in which it is located, and that is identified as contributing upon the designation of the historic district.

The historic character of the district is defined by a diverse collection of commercial and residential architecture constructed over six decades. Heights East contains at least 20 structures known to have been constructed in the 1940s that are classified as contributing. The contributing classification of these structures was intentional as the period is significant to the neighborhood's history. Early 1940s transitional residential architecture is compatible with the earlier homes of the district. As stated at the top of the column in the Inventory, dates listed are "circa dates". Particularly, those listed on the beginning and middle of a decade are "circa" (1920 means constructed circa 1920; 1935: circa 1935; 1940: circa 1940, etc.).

Relocated structures are not exempt from being classified as contributing if the structure's historic character is compatible with the district. Houston historic districts contain many structures that have been relocated from their original sites. The original, and current, location of the subject house is within the 1891 City of Houston Heights plat. Although relocated, the subject structure remains in its original historic neighborhood.

ATTACHMENT A
APPLICANT COA MATERIALS

- Written Description - pp. 22-24
- Supporting Documents - pp. 25-40
- Relocation Site Information - pp. 41-51
- Relocation Service Letter - pp. 52-57
- Designation Report Excerpt - p. 58
- Inventory Excerpt - p. 59

To: City of Houston Planning & Development Department – HAHC
RE: Relocation of 1815 Cortlandt St.

In response to your email dated March 21, 2014, please accept this submittal as additional support for our application to relocate the house on 1815 Cortlandt St. to 1026 Lathrop St. In your email, you stated that you were recommending deferral of our application to the April meeting specifically because you did not have enough information to assess compliance with the subsections of Sec. 33-243(a)(1) of the Ordinance, and you invited us to provide supporting documentation for the four criteria. This submittal, which includes much of the information that was previously presented to the Commission in addition to new material, conclusively demonstrates (1) that the house on 1815 Cortlandt was misclassified as “contributing” based on erroneous information at the time of the inventory of Houston Heights Historic District East; and (2) even if the Commission finds that the house is contributing, we have satisfied all sections of Sec. 33-243(a)(1) and the Commission has no discretion to deny the application for a certificate of appropriateness.

1. The subject structure was misclassified by the Commission as “contributing” and a certificate of appropriateness is not required to relocate it.

As stated in this Commission’s Historic District Designation Report, the objective of the historic district designation is to “preserv[e] the “contributing” buildings where their architectural integrity has been continuously maintained or it has been restored by appropriate restoration ... shown on the proposed historic district inventory.” (Designation Report, page 4). The Report specifically identifies the period of architectural significance as 1893-1941, and the inventory lists the house at 1815 Cortlandt as constructed “circa 1920.” (Designation Report, page 33)

This submission establishes the following undisputable facts:

- A. The subject structure was NOT built in 1920 but was built in 1942. See Pages 1 – 3 on attached PDF
- B. The subject structure was NOT built in the Historic Heights District East but was moved into the District in 1970. See Pages 4 – 16 on attached PDF from Staffs Report on 12/12/13
- C. Only one other structure that was built after 1941 was included in the inventory as “contributing” but it was built in the District on Heights Boulevard.

Using the Commission’s announced parameters for identifying “contributing” structures, the house on 1815 Cortlandt is noncontributing, and pursuant to Sec. 33-236(f), a certificate of appropriateness is not required to relocate it outside of the historic district. Given the evidence presented, we request that the Commission find that the house on 1815 Cortlandt is a noncontributing structure and further find that no certificate of appropriateness is required.

2. If the subject structure is found to be “contributing,” all criteria have been met to relocate the house.

Even if the Commission finds, despite the evidence to the contrary, that the house on 1815 Cortlandt is a “contributing” structure, this submittal establishes that all of the criteria required to move the house to another location have been met, and the Commission does not have the discretion to deny the certificate of appropriateness. In relevant part, Section 33-243(a) provides that the Commission SHALL issue a certificate of appropriateness for the relocation of a contributing structure upon finding that the application establishes that the contributing structure:

- a. Has architectural or historical value independent of its physical location that will not be diminished by its relocation;
- b. Can be moved without significant damage to its physical integrity;
- c. Will be relocated to an area that is compatible with the historical and architectural character of the contributing structure; and
- d. If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

This submittal will address each of these criteria individually.

- A. The subject structure’s independent historical value will not be diminished by relocation to Denver Harbor.

First, it is important to note that the subject structure’s “historical value independent of its location” is minimal at best given that it was built in 1942, was not built on 1815 Cortlandt or even within the District, and was moved into the District in 1970. Nonetheless, to the extent that the Commission believes that the house does have some historical value independent of its location, we established in our previous submittal that we have found a site for it in Houston’s historic Denver Harbor neighborhood. Denver Harbor is a historic community located in eastern Houston. It was first settled in the 1890s and was platted in 1911 and 1913. As discussed in addressing the third criteria in the ordinance, the Denver Harbor neighborhood contains houses that more closely resemble the style of the subject structure than does the District. Thus, whatever intrinsic historical significance the house has, it will not be diminished by relocating it to Denver Harbor.

- B. The subject structure can be safely moved without significant damage to its physical integrity.
- D. Attached to this submittal is the opinion of an expert in house relocation, who has assessed whether the structure can be moved without causing significant damage, and has concluded that it can be moved safely. See Pages 28 - 33 on attached PDF from Cherry House Moving and Murley House Leveling.
- C. The subject structure will be relocated to Denver Harbor, an area that is compatible with the house’s historical and architectural character.

In our earlier submittal, we described Denver Harbor, the historic community on Houston's east side, and we included photos that compare the architectural character of Denver Harbor houses to the subject property. In addition to that material, which we have included as an attachment to this submittal, we are also including photos of the other houses in the 1000 block of Lathrop, where the house will be moved (See Pages 17-21 of the attached PDF) and the entire Wikipedia entry for Denver Harbor, which describes its rich history. As is evident from the photographic evidence submitted, which contains a comparison of seven Denver Harbor cottages/bungalows with the subject property, the architectural style of the houses is compatible, and the subject property would clearly "belong" in Denver Harbor.

- D. Relocating the subject structure does not significantly diminish the integrity of Houston Heights Historic District East.

The final criterion for relocation is a finding by the Commission that relocating the subject property would not significantly diminish the integrity of the District. The materials presented with both of our submittals establish that the subject structure (1) was erroneously included in the inventory as "contributing" because the Commission wrongly believed it was built circa 1920; (2) was, in fact, built in 1942, outside the period of significance (1893-1941) identified by the Commission; (3) was not built within the District but was moved there from outside the District in 1970; and (4) is incompatible in architectural style with the remainder of the houses on the block. Because the subject structure wasn't built within the relevant time period and wasn't built within the District, the Commission cannot credibly conclude that relocating the house outside the District would significantly diminish the integrity of the District.

3. Conclusion

The Commission deferred the application for a certificate of appropriateness because it found that there was insufficient information provided to conclude that all four criteria of Sec. 33-243(a)(1) were satisfied. The additional information provided with this supplemental submittal, along with the voluminous material previously provided, clearly establishes that the subject structure does not meet the Commission's definition as "contributing" and that it should not have been classified as "contributing" from the outset. Therefore, the Commission should find, pursuant to Sec. 33-236(f) that a certificate of appropriateness is not required to relocate the subject structure. Alternatively, if the Commission ignores its established guidelines for identifying "contributing" structures, the material included with our two submittals meets all of the requirements of Sec. 33-243(a)(1), and the Commission does not have the discretion to deny our application for a certificate of appropriateness to relocate the subject structure to Denver Harbor. Accordingly, we request that the Commission either find that a certificate of appropriateness is not required under Sec. 33-236(f) or that it grant our application for a certificate of appropriateness under Sec. 33-243(a)(1).

Harris County
 BUILDING ASSESSMENT
 Houston, Texas

Map No. _____ Page 22 Permit No. 4159

Vol. 20 10/11/11 1941

Owner A. S. Donnelly Street or Avenue _____

No. 502-10 20th Block 92 Lot 1 to 4

Addition No Size of Building _____

2-5mm for _____ wide _____ deep _____ stories

2-garageX _____ wide _____ deep _____ stories

Material: Frame, Brick, Veneer, Stucco, _____
 Inside Finish: Rough, Plain, Ornamental, Hardwood, Pine, _____
 Roofing: Slate, Tile, Tin, Shingle, Copper, Composition, Iron, _____
 Tar and Gravel, Paper, Asbestos, _____
 Plumbing: With or Without Bath Room. _____

Permit Value, \$: _____

No. Sq. Ft. _____ Per Sq. Ft. _____

No. Sq. Ft. 9449 Per Sq. Ft. 130

No. Sq. Ft. 1230 Per Sq. Ft. _____

Assessed Value of Building \$ 980

Rendered in name of B. B. Smith, Jr.
 5/9/2014

ASSESSOR'S BLOCK BOOK FOR HARRIS COUNTY, TEXAS

Block No. 92 Survey or Addition Houston, Tex.

1942

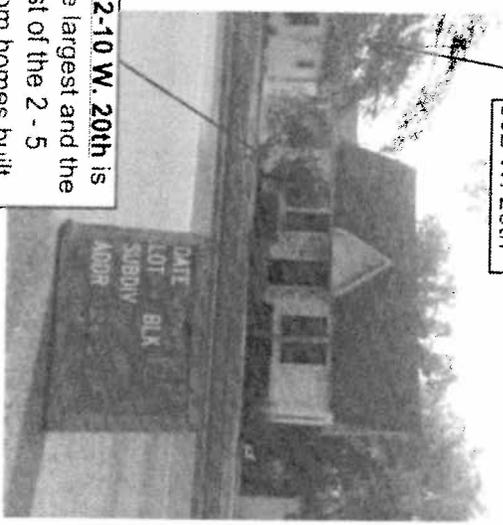
NO.	TO WHOM RESIGNED	ACRES	DATE	VALUE OF SOIL SYSTEM	IMPROVEMENTS	PERMIT	RENDERED FOR TAXATION
1	A. S. Donnelly	1	5-6-7	140	1941		
2		2	5-6-7	110	Improvements of first structure		
3		3	5-6-7	110	1941		
4		4	5-6-7	110	Improvements of first structure		
5		5	5-6-7	110	1941		
6		6	5-6-7	110	Improvements of first structure		
7		7	5-6-7	110	1941		
8		8	5-6-7	110	Improvements of first structure		
9		9	5-6-7	110	1941		
10		10	5-6-7	110	Improvements of first structure		

Building permit for all 4 structures

502-10 W. 20th
 first home built

Unadjusted value and matches 1943 value. This represents first home built which has the most square footage.

Adjusted value of first home built in 1941.



Portion of 502 W. 20th

502-10 W. 20th is the largest and the first of the 2 - 5 room homes built with permit #4159

during the "architectural period of significance" (1893-1941)

5/9/2014

Harris County
BUILDING ASSESSMENT
Houston, Texas

Map No. 110 Page 88 Permit No. 4159

Owner: L.A. ZAGST
No. 502-6-8-10-20th Street or Avenue

Addition: Houston Hqs

Block 82 Lot 170

2-5 Room garage apt

2-garage apt

Size of Building
wide 20 deep 1 stories
wide 20 deep 1 stories
wide 20 deep 1 stories

Size of Garage
wide 20 deep 1 stories

Material: Frame, Brick, Veneer, Stucco, Asbestos.
Inside Finish: Rough, Plaster, Ornamental, Hardwood, Pine, Plaster.
Roofing: Slate, Tile, Tin, Shingles Copper, Composition, Iron, Tar and Gravel, Paper, Asbestos.
Plumbing: With or Without Bath Room.

No. Sq. Ft. 949 Per Sq. Ft. 30
No. Sq. Ft. 980 Per Sq. Ft. 130
No. Sq. Ft. 530 Per Sq. Ft. 150

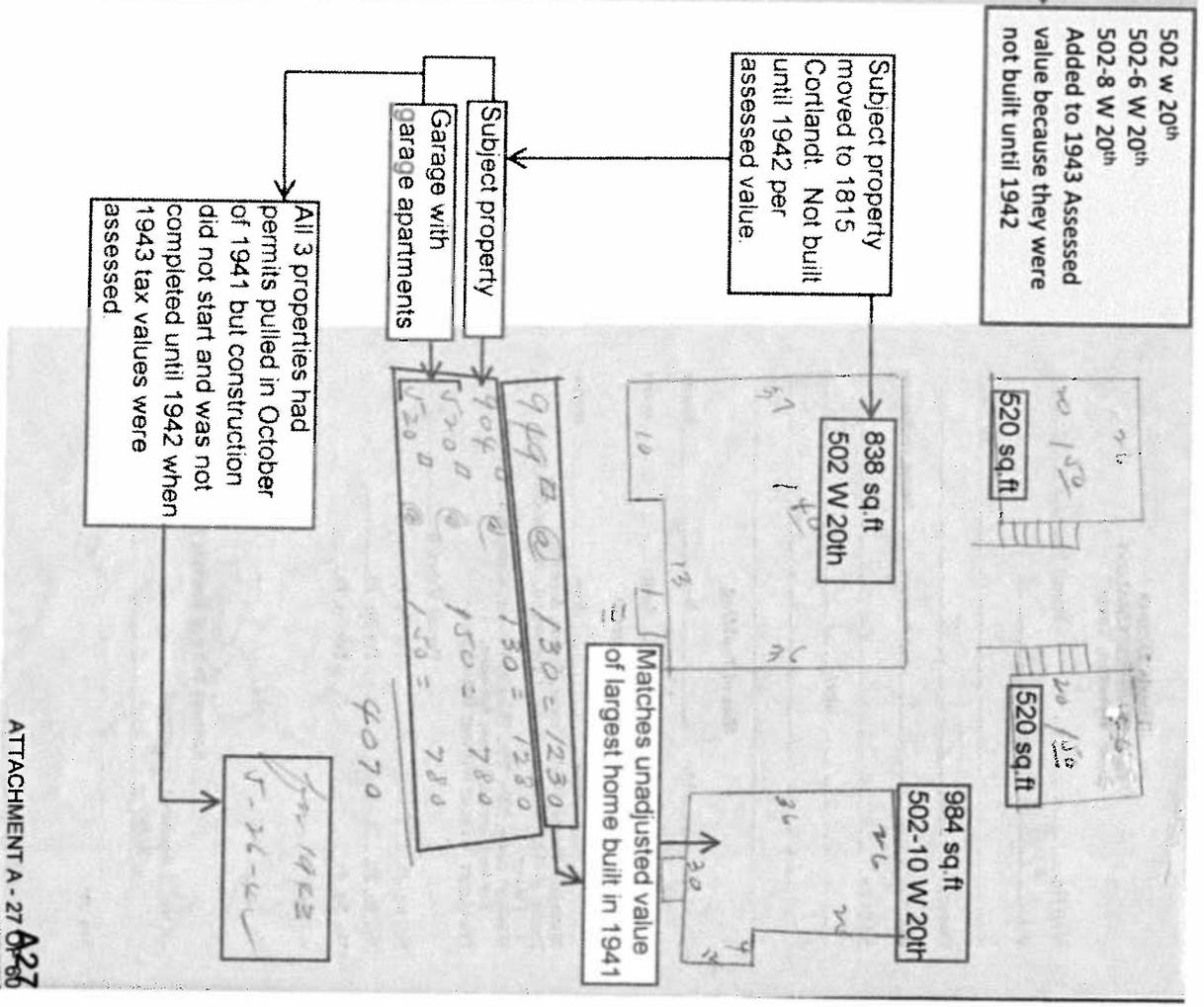
4070 X 1922 Per Sq. Ft. 5-26-42

814 X 1922 Per Sq. Ft. 3756

3756 1943 Assessed Value of Building \$ 3760

Rendered in name of Smalley, R. G.

541 534



during the "architectural period of significance" (1893-1941)

Assessors Block Book

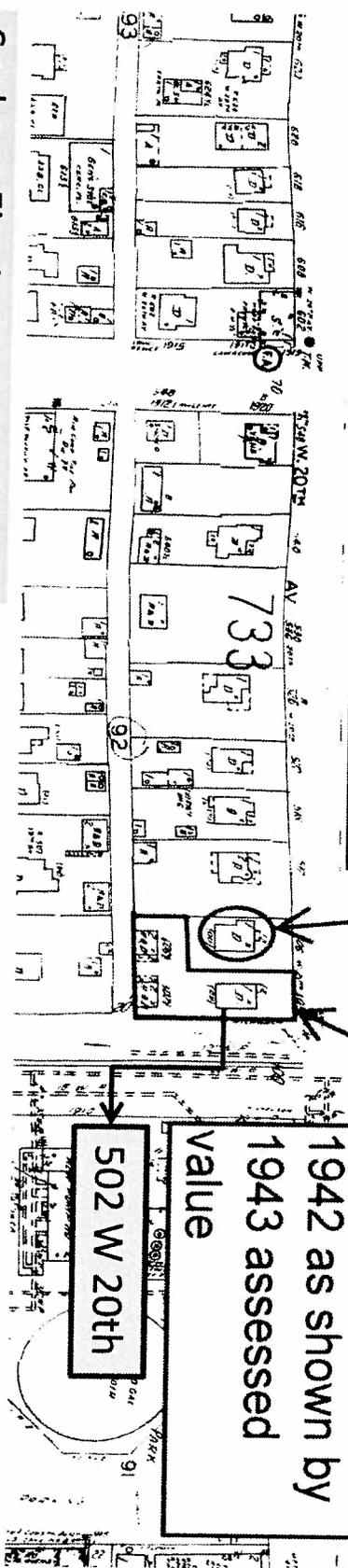
1943	A. S. Smalley	2	1	140
		do	2	110
		do	3	110
		do	4	110

1943 Assessed value of the 4 structures built and completed in 1942

3260

This home represents the 1941 Improved value and first home built

Properties not built until sometime in 1942 as shown by 1943 assessed value



Sanborn Fire Insurance Map
5/9/2014-1951

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights East

AGENDA ITEM: II.#
HPO File No. 131201

APPLICATION MATERIALS - C

Harris County Archives records for 1815 Cortlandt: page 1 of 8

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HOUSTON, TEXAS

48.76.0.21 Harris County BUILDING ASSESSMENT 30929400
Houston, Texas

Vol. 20 Page 101 Permit No. city
Inspector _____

Date _____ 19____

Owner _____
No. 1815 Cortlandt Street

Survey or Addition Houston Heights
Abst. _____ Lot or Tr. 10 x 12' 2 1/2 Bik 105-

Type Residential Commercial _____
Industrial _____ Pre-Fab _____

Exterior: Permacrete — Rock — Brick Veneer — Frame — Stucco — Concrete Tile — Claytile — Cedar Shakes — Composition — Shingle — Redwood.

Interior: Sheetrock — Plastered — Paneled — Cellotex — Plywood — None paper

Floors: Oak — Plywood — Cement — Tile — Pine — Azrock — Higgins — Terrazzo — None.

Roofing: Shingle — Asbestos — Terra-Cotta — Tile — Composition — Slate — Copper — C-Iron, Tar and Gravel.

Foundation: Concrete Slab — Piers — Blocks, Beams — Brick — Piers-Wood.

Plumbing: 1 Tile — 2 Tile — 3 Tile — Other: None.

Climatizers: Dual Temp. Ac — Tons, Attic Ventilation — Central Heat Unit — Gas Stoves — None.

Electrical Equipment: Part — All — Sprinklers.

Condition: New — Good — Fair — Poor — Obsolete. +140

Permit Val. _____
Year Built _____

Remarks: 998° @ 165' : 165° here 50% : 820
160° @ 30' : 50' here 60% : 20
840

Moved here _____ From _____

No. Sq. Ft. 4-17-56 Per Sq. Ft. _____
No. Sq. Ft. _____ Per Sq. Ft. _____

1957 Newton Assessed Value of Building 340
Youngman Mrs Mina

CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

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 HISTORIC DISTRICT: Houston Heights East

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 HPO File No. 131201

APPLICATION MATERIALS - C

Harris County Archives records for 1815 Cortlandt: page 2 of 8

Map No. _____ Addition <u>Houston Hts.</u> Block <u>105</u> Lot <u>10-N-12-11</u>		IMPROVEMENTS No. Sq. Ft. <u>980</u> Price Per Sq. Ft. <u>1 90</u> \$ <u>1860</u>													
OWNER <u>Youngman, Mrs. Mira</u> ADDRESS <u>1815 Cortlandt St.</u>			Percent Good <u>60</u>												
TYPE OF PROPERTY <u>Res - OCCUPIED VACANT</u>			Other Bldgs. <u>Rm 40</u>												
BASEMENT, Whole Part _____ FOUNDATION, Concrete, Stone, Brick, Piers, Posts. _____ WALLS, Brick _____ Stone _____ Hollow Tile, Stucco, Metal, Concrete Blocks, Box _____ Weatherboard _____ ROOF CONS., Concrete, Steel, Wood Truss _____ ROOF, Hip, Gable, Mansard, Flat _____ ROOFING, Composition, Metal, Slate, Wood, Shingles, Tile, Asbestos _____ EXTERIOR TRIM, Stone, Terra Cotta, Metal, Wood, Marble, Granite _____	FLOORING, Pile, Hardwood, Cement, Tile, Marble, Dirt _____ INTERIOR TRIM, Plaster, Hardwood, Marble, Metal, Built-in Features _____ HEATING, Furnace, Stoves, Fireplace, Chimneys, Gas _____ LIGHTING, Electricity _____ PLUMBING, Sewer, Water, Baths _____ ELEVATORS _____ CONDITION, Good, Fair, Bad, Obsolete _____	Total All Bldgs. <u>1150</u>													
PERMIT DATE _____ NO. _____ AMT. _____		LAND VALUE <table border="1"> <thead> <tr> <th>Front x Depth</th> <th>Unit Value</th> <th>Factor</th> <th>Front Ft. Value - - \$</th> </tr> </thead> <tbody> <tr> <td><u>62 x 132</u></td> <td><u>12</u></td> <td><u>113.63</u></td> <td><u>840</u></td> </tr> <tr> <td colspan="3" style="text-align: right;">TOTAL</td> <td></td> </tr> </tbody> </table>		Front x Depth	Unit Value	Factor	Front Ft. Value - - \$	<u>62 x 132</u>	<u>12</u>	<u>113.63</u>	<u>840</u>	TOTAL			
Front x Depth	Unit Value	Factor	Front Ft. Value - - \$												
<u>62 x 132</u>	<u>12</u>	<u>113.63</u>	<u>840</u>												
TOTAL															

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CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights East

AGENDA ITEM: II.#

HPO File No. 131201

APPLICATION MATERIALS - C

Harris County Archives records for 1815 Cortlandt: page 3 of 8

HARRIS COUNTY BUILDING ASSESSMENT

CITY ACCOUNT NO.				COUNTY ACCOUNT NO.				
VOL.	PAGE	SUB	ITEM	SEQUENCE NO.	VOL.	PAGE	SUB	ITEM
18	9600	2	1	30929400	20	101		10

DATE: 11-22-60

OWNER: Ed A. Flett

INSPECTOR: _____
INSPECTOR: _____
INSPECTOR: _____

NO: _____ STREET

SURVEY OR ADDITION: Houston Heights

ABST. LOT OR TCT. 10-12th BLK. 105

TYPE: RESIDENTIAL COMMERCIAL INDUSTRIAL PRE-FAB

EXTERIOR: PERMASTONE - ROCK - BRICK MASONRY - BRICK VENEER - FRAME - STUCCO - CONCRETE - TILE - CLAYTILE - CEDAR SHAKES - COMPOSITION - SHINGLE - REDWOOD

INTERIOR: PAPER - SHIP LAP - SHEETROCK - PLASTERED - PANELED - CELLULOSE PLYWOOD - NONE

FLOORS: OAK - PLYWOOD - FLAGSTONE - CEMENT - TILE - PINE - AZROCK - HIGGINS - TERRAZIO - NONE

ROOFING: SHINGLE - ASBESTOS - TERRA COTTA - TILE - COMPOSITION - SLATE - COPPER - C IRON - TAR AND GRAVEL - STONE - SLAG - ALUMINUM

FOUNDATION: CONCRETE SLAB - BLOCKS - BEAMS - PIERS - BRICK - NONE

PLUMBING: 1 TILE - 2 TILE - 3 TILE - 4 TILE - 5 TILE - SPRINKLERS - OTHER - NONE

CLIMATIZERS: DUAL TEMP AC. - AC. - ATTIC VENTILATION - CENTRAL HEATING - GAS STOVES - NONE

ELECTRICAL EQUIPMENT: PART - ALL

CONDITION: NEW - GOOD - FAIR - POOR - OBSOLETE

PERMIT NO. 1961

PERMIT VALUE Youngman Mrs

YEAR BUILT. miss

REMARKS: Vacant

MOVED HERE: 11-26-60 FROM: _____

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CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street
 HISTORIC DISTRICT: Houston Heights East

AGENDA ITEM: II.#
 HPO File No. 131201

APPLICATION MATERIALS - C
 Harris County Archives records for 1815 Cortlandt: page 4 of 8

48-76-0-21

Map No. 100-411 Acc't. No. HARRIS COUNTY-BUILDING ASSESSMENT

Permit No. 97 Date JAN 22 1970

Owner James R. Quinn

Street No. 1815 Cortlandt

Address Houston Heights Section _____

(TR-29) 13
 10 + 1/2 of 11
 Houston Hotel
 112 BK 93

Block No. 105
 048-063-00-001

COUNTY ACCOUNT NO.			
SEQUENCE NO.	VOL.	PG.	SUB. ITEM
2245310900	20	101	10

25% RATIO	1971 TOTAL	1030
1971 New DATE	VALUE	910

NEW OWNER
Quinn James R

No. Stories	ROOF TYPE	INTERIOR	EXTRA FEATURES
<input checked="" type="checkbox"/> Single Family	<input checked="" type="checkbox"/> Gable	S/L & Paper	Finished Attic
<input type="checkbox"/> Duplex	<input type="checkbox"/> Hip	<input checked="" type="checkbox"/> Sheetrock	Basement
<input type="checkbox"/> Garage Apt.		Wood Panels	CARPORT
FOUNDATION	ROOFING	Plaster	Roof
<input type="checkbox"/> Concrete Slab	<input type="checkbox"/> Wood Shingles		Floor
<input checked="" type="checkbox"/> Beam & Piers	<input checked="" type="checkbox"/> Comp. Shingles	2-No. Bedrooms	
<input type="checkbox"/> Concr. Blks.	<input type="checkbox"/> Tar & Gravel	1 No. Baths	GARAGE
EXTERIOR WALLS	FLOORING	Tile	Walls
<input type="checkbox"/> Brick Veneer	<input type="checkbox"/> Pine		Roof
<input type="checkbox"/> Stone Veneer	<input checked="" type="checkbox"/> Hardwood	HEATING & COOLING	Floor
<input checked="" type="checkbox"/> Lumber	<input type="checkbox"/> Asphalt Tile	A/C, C/H or Dual	
<input type="checkbox"/> Shakes	<input type="checkbox"/> Wool Carpets	No. Fireplaces	Ceiled
			Doors

Base Unit \$ _____
 CLASS _____ A/C C/H \$ _____
 Total Unit \$ _____

EXISTING ASSESSMENTS ON BLOCK BOOK

Land - Assmt. \$ _____
 Impro. - Assmt. \$ _____
 PERMIT VALUE \$ _____

Rendered in name of _____

1815 Cortlandt

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Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights East

AGENDA ITEM: II.#
HPO File No. 131201

APPLICATION MATERIALS - C

Harris County Archives records for 1815 Cortlandt: page 6 of 8

HARRIS COUNTY BUILDING ASSESSMENT
ACN 048-076-00-021-3

OWNER: QUINN MARY F
ADDRESS: TR 29 LT 10 + 12 FT OF 11 BLK 105
DESCRIP.: HOUSTON HEIGHTS

LAND VALUE: 2550
IMPROVEMENTS: 4150 *Aug*

COUNTY ACCOUNT NO.		SEQUENCE NO.	VOL.	PG.	SUB.	ITEM
		30	101	0	10	

revalued

1978 *Nov 24* *1978* VALUE *4430*

NEW OWNER

No. Stories	FOUNDATION	ROOF TYPE	GARAGE
Sngl. Family	Concr. Slab	Gable	Walls
Duplex	Beam & Piers	Hipped	Roof
Gar. Apt.	Concr. Blks	Flat	Floor
Fnsht. Attic			Ceiled
Basement	FLOORING	ROOFING	Doors
Siding	Pine	Wd. Shngls	
Brick V.	Hardwood	Comp. Shgs	
Stone V.	Terrazzo	Tar & Gravel	CARPORT
Asbestos	Vinyl		Roof
Shkns	WtoW Cpts	INTERIOR FNISH	Floor
umber		S/L & Paper	
	HEATING & COOLING	Sheetrock	
o. Bdrms	A/C,C/H, Dual	Wd. Panels	
o. Baths		Plaster	
1. Plplaces			

Permit Val. Existing Assmnts
048-076-00-021-3 1977 01/24/77 I
5530 250-00 13830 532

Rendered in name of

MARKET VALUE 100%
5530
(FROM REVERSE)

APPRaiser CODE: 1-35 DATE: 12/6/78

TRANSMITTED
DATE: DEC-7
OPR. [initials]

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CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights East

AGENDA ITEM: II.#
HPO File No. 131201

APPLICATION MATERIALS - C
Harris County Archives records for 1815 Cortlandt: page 7 of 8

The image is a composite of three parts: a site plan on the left, a black and white photograph of a house on the right, and a handwritten appraisal form at the bottom. The site plan shows a rectangular lot with dimensions and a circled number '1347'. The photograph shows a two-story house with a gabled roof and a central entrance. The appraisal form includes a table of values, a calculation for a 2.5x factor, and a final value of 4430.

Ph. #	Ac.	Value	Ac.	Value
11.70				
11.70	4.70	6250		
24	120	30		
102	120	130		
		6910		
		2760		
		4150		

Yr. Built _____ Depr. _____ %
 A/C&C/HB \$ _____ Total Units \$ _____
 SFPS \$ _____ \$ _____

Old 6910
 X.8
 5530 New

factor 2.5 x 5530 = 13825 = 102%

TOTAL VALUE \$ 4150
 For 19 27

Total 100% Value \$ 5530
 For 19 27

1970
 FOR 19 27

@ 32% = 4430

CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street

AGENDA ITEM: II.#

HISTORIC DISTRICT: Houston Heights East

HPO File No. 131201

APPLICATION MATERIALS - C

Harris County Archives records for 1815 Cortlandt: page 8 of 8

1978 Sch. Dist 01

RESIDENTIAL BOARD INFORMATION

ACCT: # 20-101-0-10

①
FEB 17 1977

1. SUB DIVISION: HOUSTON HEIGHTS
2. ADDRESS: 1815 CORTLANDT
3. YEAR BUILT: 1970 AGE 8 DEP 80 % GOOD
4. YEAR DEP. FIRST GIVEN: 19 @ % GOOD
5. PRESENT PHYSICAL CONDITION: GOOD FAIR POOR
6. COUNTY 100% VALUE: LAND \$ 2031 IMPS 13843 TOT \$ 15870
7. OWNERS 100% VALUE: LAND \$ IMPS 12031 TOT \$
8. COUNTY PERCENT OF ASSESSED VALUE IN SUB DIV %
9. OWNERS PERCENT OF ASSESSED VALUE IN SUB DIV %
10. COMPARABLE SALES:
 - A. ADDRESS: SALES PRICE: \$
 - B. ADDRESS: SALES PRICE: \$
11. REMARKS: (FOR BOARD)
referred to Board.
- D. C. GLOVER
12. ACTION BY BOARD:

<input type="checkbox"/> BOARD REDUCTION (100%)	LAND \$	COPIED FROM COLLECTIONS AT HARRIS COUNTY ARCHIVES HOUSTON, TEXAS
	IMPS \$	
<input type="checkbox"/> NO CHANGE	TOTAL \$	

BY: _____
DATE: _____

HARRIS COUNTY TAX ASSESSOR FORM #103, DATED FEB. 16, 1977

CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street

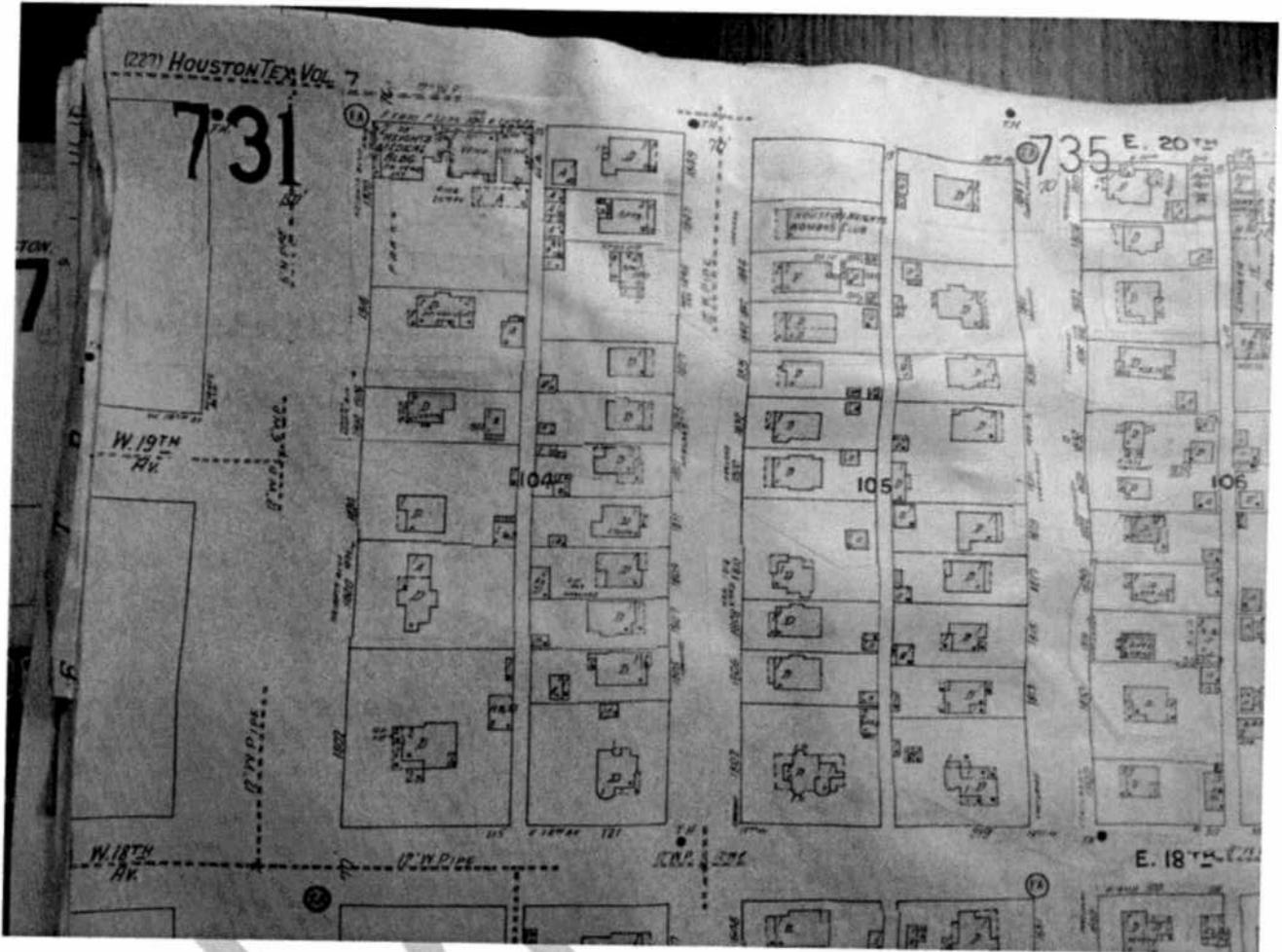
AGENDA ITEM: II.#

HISTORIC DISTRICT: Houston Heights East

HPO File No. 131201

APPLICATION MATERIALS - D

Sanborn Fire Insurance Map, 1925-1958



CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street

AGENDA ITEM: II.#

HISTORIC DISTRICT: Houston Heights East

HPO File No. 131201

STAFF SUPPLEMENTAL REVIEW MATERIALS - 1

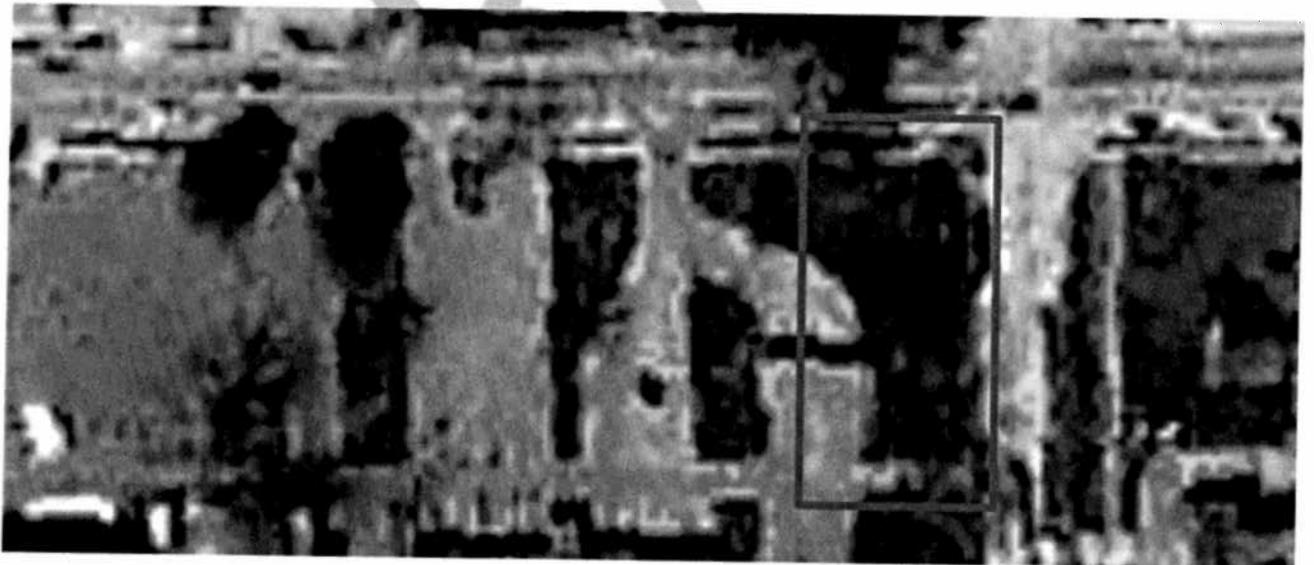
Google Earth Historic Aerial Photos: 502 W 20th St (Block 92, Lots 1 & 2)



1944 – Residence visible on property



1978 – Residence no longer on property



CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street
HISTORIC DISTRICT: Houston Heights East

AGENDA ITEM: II.#

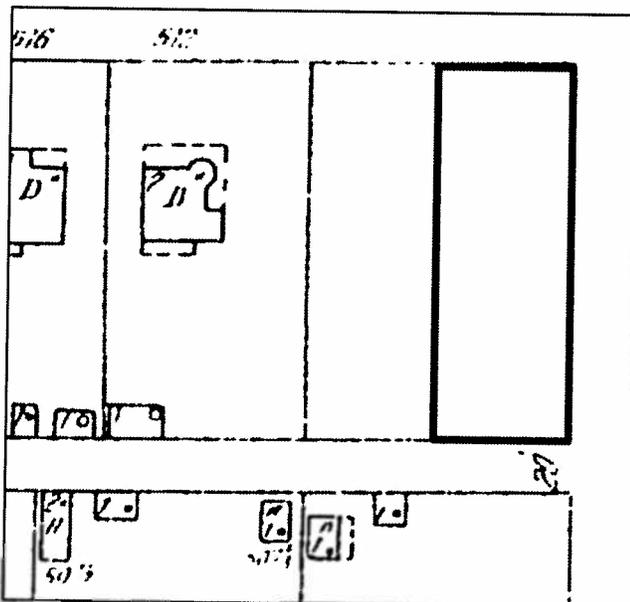
HPO File No. 131201



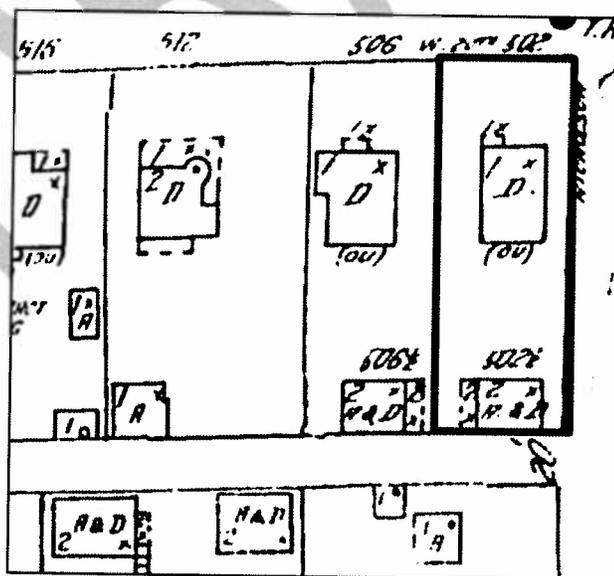
STAFF SUPPLEMENTAL REVIEW MATERIALS - 2

Sanborn Fire Insurance Maps: 502 W 20th St (Block 92, Lots 1 & 2)

1924-1950 – Residence not on property



1924 – Feb. 1951 – Residence on property



CERTIFICATE OF APPROPRIATENESS

Houston Archaeological and Historical Commission

Meeting Date: December 12, 2013

SITE LOCATION: 1815 Cortlandt Street

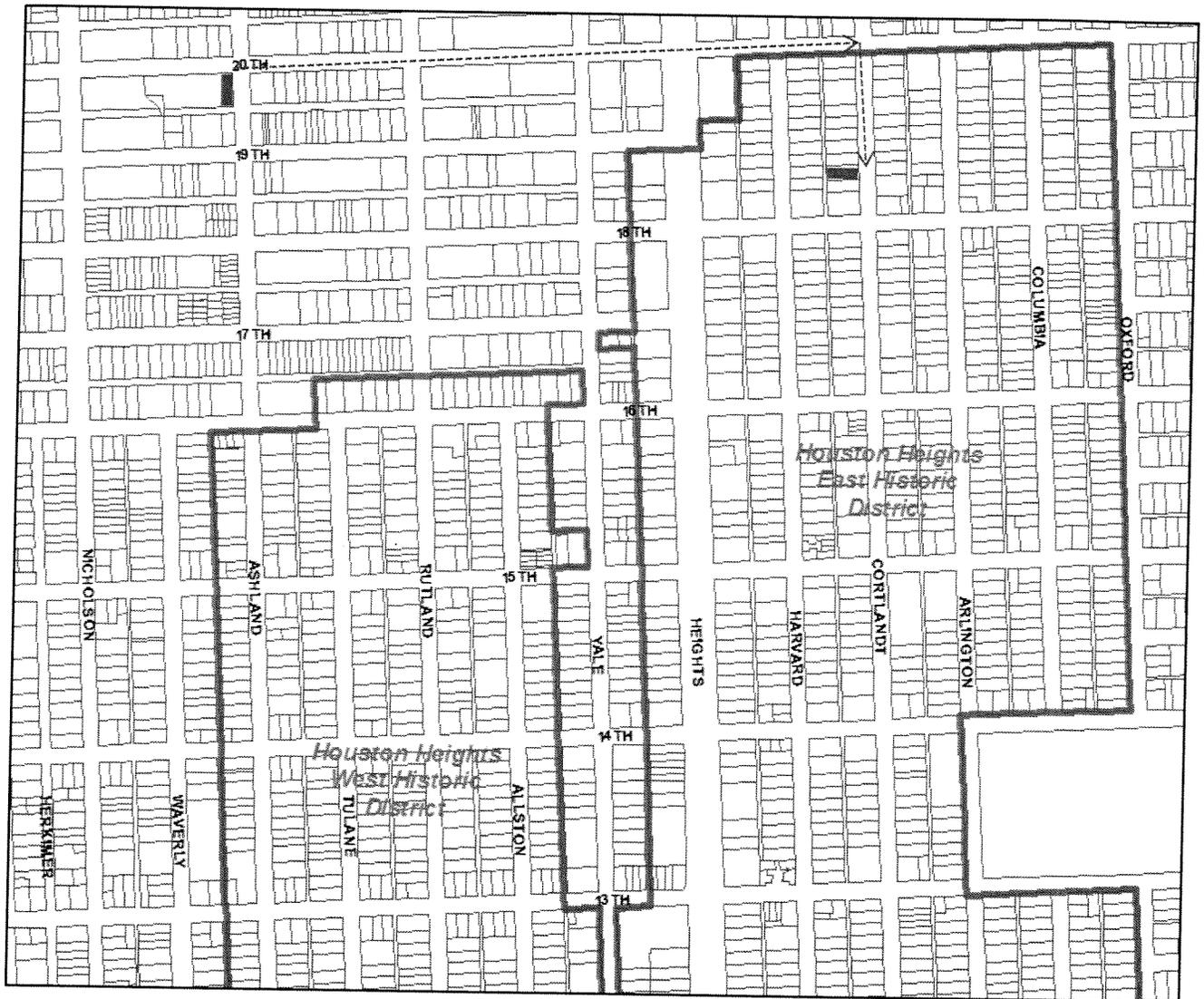
AGENDA ITEM: II.#

HISTORIC DISTRICT: Houston Heights East

HPO File No. 131201

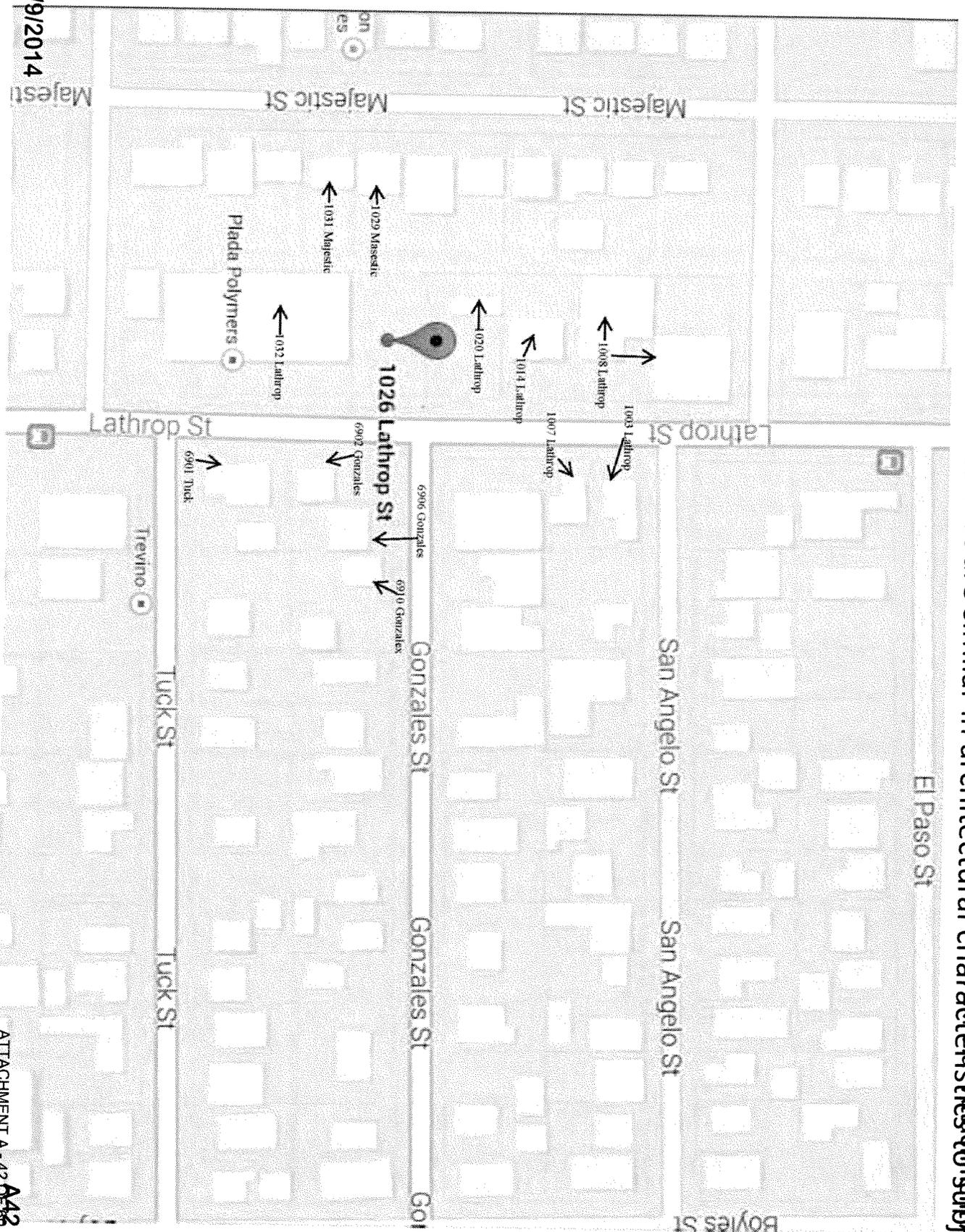
STAFF SUPPLEMENTAL REVIEW MATERIALS - 3

Relocation Map



CERTIFICATE OF APPROPRIATENESS

APRIL 2014 HAAC
Map of the premises at 1026 Lathrop address that are similar in architectural character to the subject



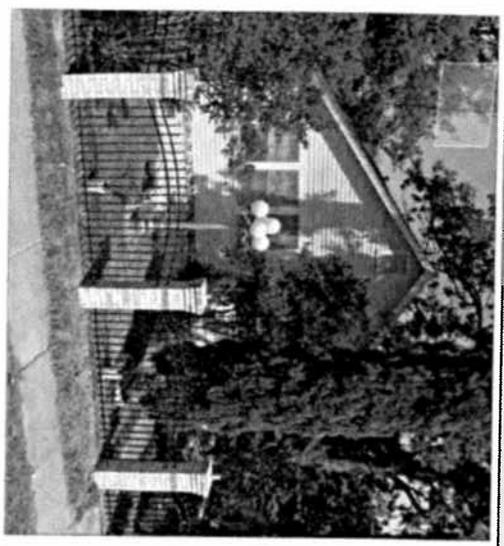
5/9/2014

ATTACHMENT A - 42

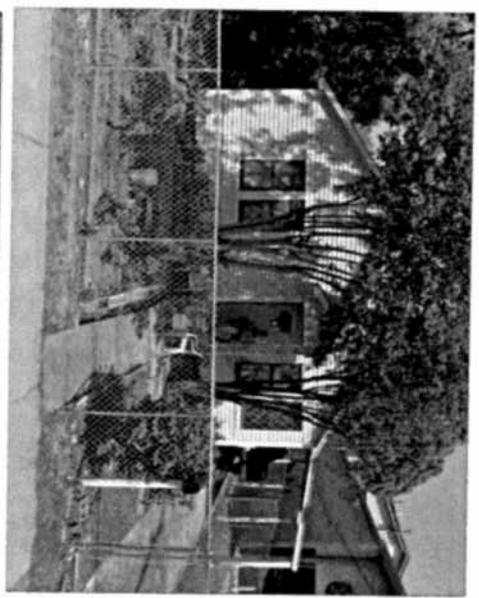
HIGHWAY DISTRICTS 1000 Block of Lathrop

APPLICANT MATERIALS

ITEM V. a - ATTACHMENT A



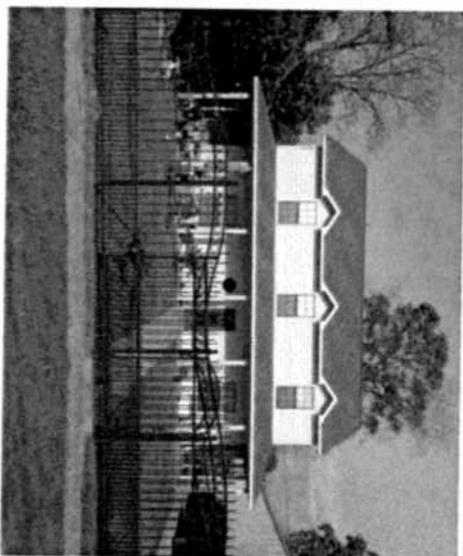
1003 Lathrop
Built 1926



1007 Lathrop
Built 1928



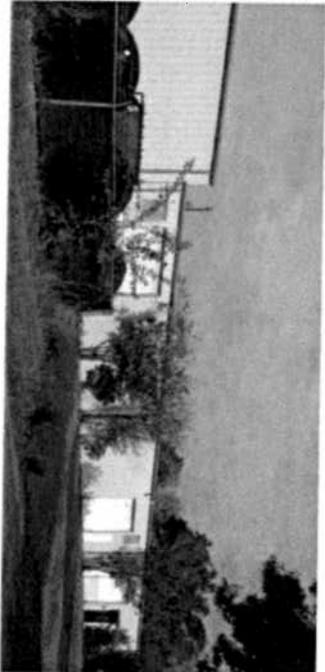
1008 Lathrop - Built 1950 - Commercial



1014 Lathrop
Built 2008



1020 Lathrop
Built 1950



1032 Lathrop - Built 1984 - Commercial

**Homes in Denver Harbor near
relocation address 1026 Lathrop and
are compatible with 1815 Cortlandt.**



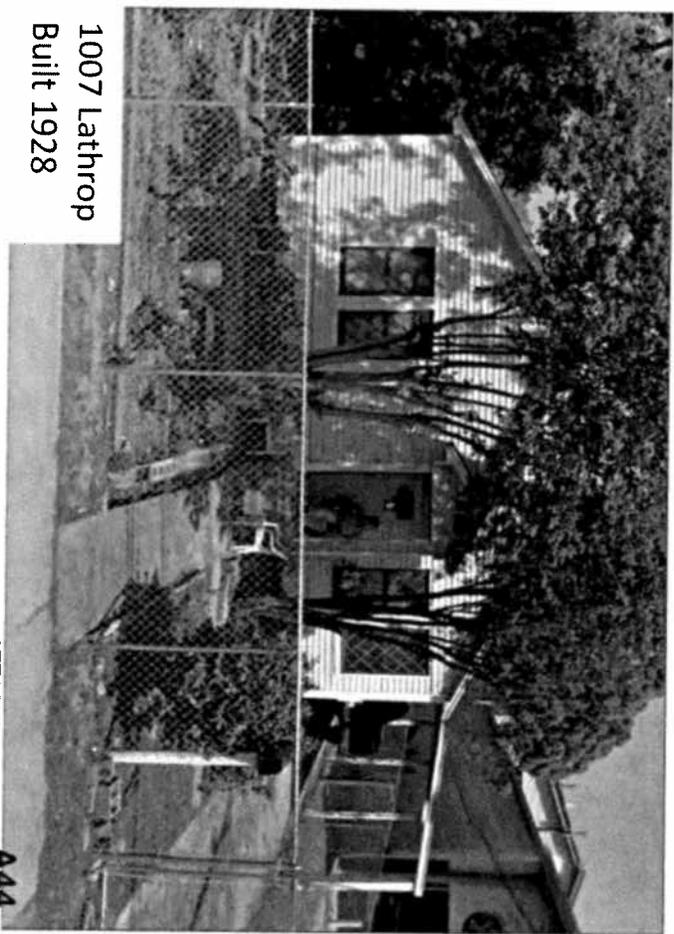
1003 Lathrop
Built 1926

5/9/2014



ITEM V.a - Attachment A

Subject - 1815 Cortlandt
Built 1942



1007 Lathrop
Built 1928

Homes in Denver Harbor near
relocation address 1026 Lathrop and
are compatible with 1815 Cortlandt.



6906 Gonzales
Built 1940



Subject - 1815 Cortlandt
Built 1942

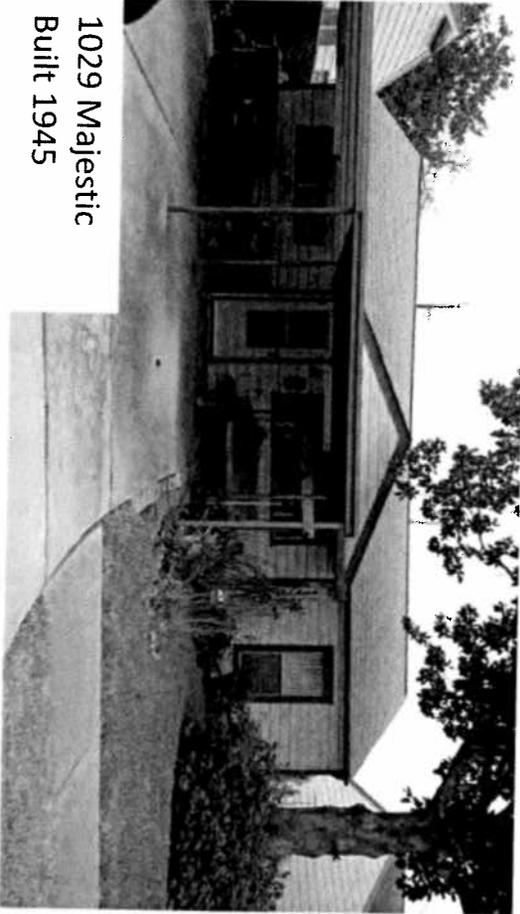


6910 Gonzales
Built 1930

5/9/2014

**Homes in Denver Harbor near
relocation address 1026 Lathrop and
are compatible with 1815 Cortlandt.**

APPLICANT MATERIALS

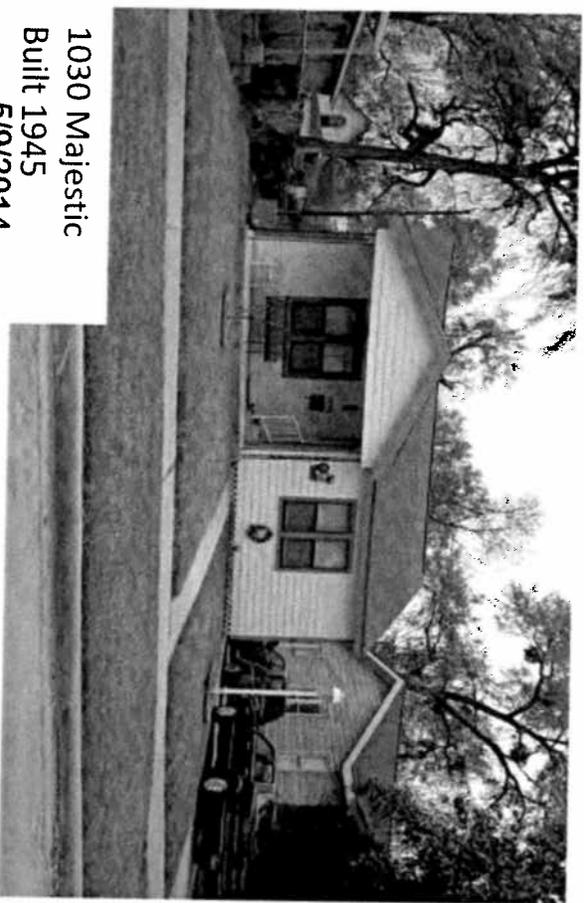


**1029 Majestic
Built 1945**



**Subject - 1815 Cortlandt
Built 1942**

ITEM V. a - Atlas Cortlandt



**1030 Majestic
Built 1945
5/9/2014**



**6901 Tuck
Built 1930**

Denver Harbor, Houston

From Wikipedia, the free encyclopedia

Denver Harbor is a historic community located in eastern Houston, Texas, United States near the Houston Ship Channel. The community, bounded by Wallisville Road, the Houston Belt and Terminal Railroad, the Southern Pacific Railroad, the Port Authority Railroad, was first settled in the 1890s and platted in 1911 and 1913.^[1] The community includes many historic bungalow and cottage homes.^[2]

Denver Harbor is a mostly Hispanic community.^[3]

Contents

History

Denver Harbor was first settled in the 1890s and platted in 1911 and 1913. The four original subdivisions were: Denver, Harbor, Harbordale, and Liberty Heights.^[1] The names "Denver" and "Harbor" merged and became the name "Denver Harbor," which describes the entire community.^[4] Many early residents of Denver Harbor were Texans who left farms for the city neighborhood to make a better life for themselves and their families. These residents found work on the railroads and industrial companies that were established along the Houston Ship Channel^[1] Greeks, Italians, and Poles settled Denver Harbor.^[5] The City of Houston annexed the Denver Harbor and Houston Harbor communities in 1929, adding 885 acres (358 ha) of land to the city limits.^[6]

On June 1, 1939, the word "Podunk" was mysteriously written on the side of the local water tower. The city tried repeatedly to cover over the word, however the name would always reappear within days.^[1] Inspired by the defiance of the sign's unknown painter, area residents soon began to identify as Podunkers. The names was adopted by a local youth basketball team known as the Podunk Skunks.^[1] The names, used in the 1930s and 1940s, was in reference to how Denver Harbor was considered to be "out-of-the-way." The slang became known after area children painted the word on a water tower.^[7] Jay Grady, an area resident, stated in a 2007 Houston Chronicle article that residents felt proud of the nickname since back then Denver Harbor was barely in the eastern city limits of Houston and that "it was kind of like living in the country rather than being in the city." Grady added that the community was "always been kind of a stepchild to the city of Houston, kind of a hardscrabble community, mostly blue-collar workers on the eastern edge of the city limits. We felt like we lived in the country rather than in town."^[4] As the population transitioned from working-class White Americans to Hispanic Americans the nickname was no longer used.^[7]

http://519.120.14.14beta.org/wiki/Denver_Harbor,_Houston#Government_and_Infrastructure

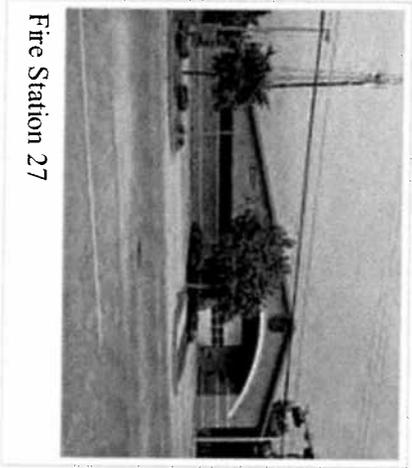


Denver Harbor entrance sign

Dr. Jay Grady self-published 2,000 copies of his book Where the Hell is Podunk, Texas?, which is about Denver Harbor. In addition he lobbied to have Denver Harbor declared as the "official mythical town of Texas" due to the "Podunk" nickname. A Texas House of Representatives resolution that would have declared this was passed by the House and then rejected by most of the members of the Texas Senate, including Mario Gallegos, a Texas senator whose district includes Denver Harbor.^[7] In August 2007 Tropical Storm Erin flooded streets and houses in Denver Harbor.^[8] By 2008 residents from the area vocally opposed a perceived increase in crime.^[9]

Government and infrastructure

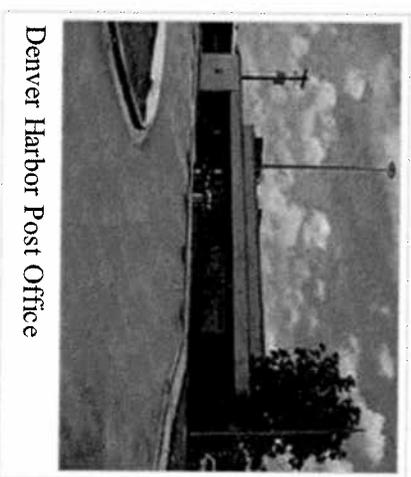
The city operates the Denver Harbor Multi-Service Center at 6402 Market Street.^[10] The city multi-service centers provide several services such as child care, programs for elderly residents, and rental space.^[11]



Fire Station 27

It is a part of Houston City Council District H.^[12] The City of Houston operates Fire Station 27. As World War II began, the city government was working on plans for Station 27. It opened at the intersection of Kress Street and Lyons Avenue in 1941. In November 2002 the groundbreaking for the current Station 27, larger than the previous one, occurred. A Community Development Block Grant funded the new station. It opened at its current location, 6515 Lyons Avenue, in May 2004.^[13]

The United States Postal Service operates the Denver Harbor Post Office at 5901 Market Street.^[14] In July 2011 the USPS announced that the post office may close.^[15] Some area residents criticized the proposed closure.^[16]



Denver Harbor Post Office

Parks and recreation

The City of Houston operates the Selena Quintanilla Perez Park-Denver Harbor, named after Selena Quintanilla, at 6402 Market Street.^[17] The park has a .87 mile hiking and bicycle trail, a volleyball court, a swimming pool, a playground, and a lighted sports field. The city operates the Selena Quintanilla Perez Community Center, which has a weight room, and indoor gymnasium, and meeting rooms, at the same address.^[18] Cliff Turtle Park is located at 6200 Lyons Avenue.^[19] Santos & Esther Nieto Park is located at 500 Port Street.^[20]

Culture

The north-south Southern Pacific Transportation Company railroad tracks separate Denver Harbor from the Fifth Ward. David Benson, an assistant to Harris County Commissioner El Franco Lee, described the railroad line as "a semi-permeable membrane." In the 1990s many Fifth Ward African-Americans went into Denver Harbor to shop at the area supermarket and stores, while the Denver Harbor Hispanics rarely entered the Fifth Ward. [5]

Education

Primary and secondary schools

Residents attend the Houston Independent School District. Denver Harbor is in Trustee District VIII, represented by Diana Davila as of 2009. [21]

Zoned elementary schools serving sections of the neighborhood include Eliot Elementary School, [22] Raul C. Martinez Elementary School, [23][24] Pugh Elementary School, [25] and Scroggins Elementary School. [1][26] All areas in Denver Harbor are zoned to McReynolds Middle School and Wheatley High School. [1][27][28] Eliot opened in 1926. Pugh received its name in 1952. McReynolds opened in 1957. Scroggins opened in 1968. [29] Wheatley High School, in the Fifth Ward, was desegregated, Houston ISD rezoned Denver Harbor, which at that time had many White residents and was becoming Hispanic, to Wheatley. Many area Hispanic students preferred to attend Austin High School and Furr High School as they became the majority population at those schools. Even though Denver Harbor and the Fifth Ward are zoned to Wheatley, the areas are represented by different board members. [5] Martínez opened in 1994. [29]

The Roman Catholic Archdiocese of Galveston-Houston operates Resurrection School, a 3K-8 coeducational Roman Catholic school, at 916 Majestic Street. [30]

Community college

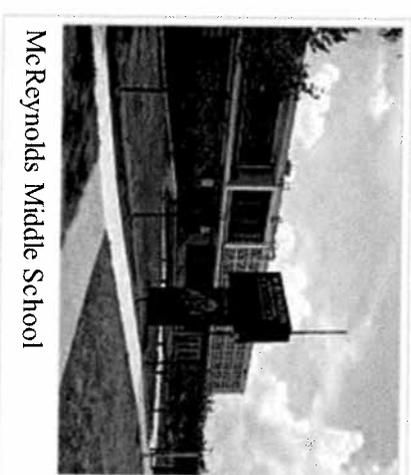
Residents are within the Houston Community College System boundaries. [31]

Public libraries

The Houston Public Library operates the Cliff Tuttle Neighborhood Library at 702 Kress Street. [32]

Notable residents

http://59.120.14.59/wiki/Denver_Harbor_Houston#Government_and_infrastructure

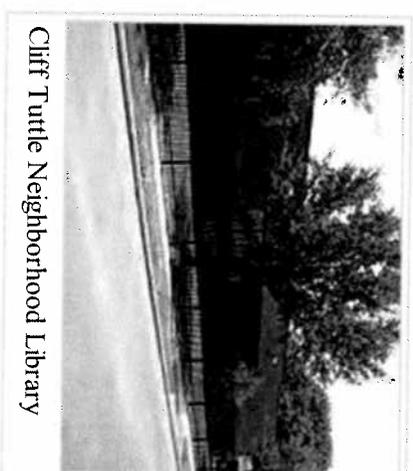


McReynolds Middle School

- Ben Reyes (former politician and felon)[33]

See also

- List of Houston neighborhoods



Cliff Tuttle Neighborhood Library

References

- ^a ^b ^c ^d ^e ^f ^g "80(R) HCR 81 - Introduced version - Bill Text" (<http://www.capitol.state.tx.us/tlodocs/80R/billtext/html/HCR000811.htm>). capitol.state.tx.us. Retrieved 2009-04-05.
- [^] "Denver Harbor (<http://www.houstonx.gov/houstonhope/denverharbor.html>). "Houston Hope Homes. Retrieved on May 2, 2009.
- [^] "[1] (<http://www.houstonx.gov/health/chs/Denver%20Harbor.pdf>). "Denver Harbor/Port Houston Super Neighborhood Community Health Assessment Report. City of Houston Department of Health and Human Services, Office of Surveillance and Public Health Preparedness.
- ^a ^b Babineck, Mark, Ayssha N. Hernandez, and the Austin Bureau. "A Houstonian has persuaded the state House to make his boyhood neighborhood an 'official mythical town' / Podunk, Texas - not far away, really (http://www.chron.com/CD/Archives/archive.mpl?id=2007_4342786). "Houston Chronicle. Thursday May 10, 2007. BI MetFront. Retrieved on April 4, 2009.
- ^a ^b ^c Berryhill, Michael. "What's Wrong With Wheatley?". Houston Press. April 17, 1997. 3 (<http://www.houstonpress.com/1997-04-17/news/what-s-wrong-with-wheatley/3>). Retrieved on March 31, 2009.
- [^] Lee, Renée C. "Annexed Kingwood split on effects (<http://www.chron.com/disp/story.mpl/metropolitan/4243441.html>). "Houston Chronicle. Sunday October 8, 2006. A21. Retrieved on July 6, 2011. Print version exclusively has the information cited; the information is not included in the online edition.
- ^a ^b ^c Babineck, Mark. "'Podunk' loses shot at mythic status (<http://www.chron.com/disp/story.mpl/special/07/legislature/4875193.html>). "Houston Chronicle. June 9, 2007. Retrieved on March 31, 2009.
- [^] Woodard, Brad. "Denver Harbor homes take on water (http://www.khou.com/news/local/stories/khou070816_ti_denverharborflooding.3fe86f43.html). "KHOU-TV. Thursday August 16, 2006. Retrieved on April 4, 2009.
- [^] Cerota, Andy. "Residents fighting crime with help (<http://abclocal.go.com/ktrk/story?section=news/local&id=5879125>). "KTRK-TV. April 17, 2008. Retrieved on January 22, 2010.
- [^] "Denver Harbor Multi-Service Center (<http://www.houstonx.gov/health/MSC/denverharbormsc.html>). "City of Houston. Accessed October 27, 2008. http://www.denverhistory.org/wiki/Denver_Harbor_Houston#Government_and_infrastructure

11. [^] "Multi-Service Centers (<http://www.houstonx.gov/health/MSC/>). " City of Houston. Accessed October 27, 2008.
12. [^] City of Houston, Council District Maps, District H (<http://www.houstonx.gov/council/maps2012/h.pdf>). " City of Houston. Retrieved on November 5, 2011.
13. [^] "FPD Fire Station No. 27 (<http://www.houstonx.gov/fire/firestations/station27.html>). " City of Houston. Retrieved on September 1, 2012.
14. [^] "Post Office Location - DENVER HARBOR (http://usps.whitepages.com/service/post_office/61417?p=4&s=tx&service_name=post_office&z=houston). " United States Postal Service. Retrieved on December 4, 2008.
15. [^] Weisman, Laura. "Nine Houston post offices marked for closure (with poll) (<http://blog.chron.com/newswatch/2011/07/nine-houston-post-offices-marked-for-closure/#424-10>). " Houston Chronicle. July 26, 2011. Retrieved on July 26, 2011.
16. [^] Horswell, Cindy and Megan Ryan. "South Texas post office closures 'heart breaking' for many (<http://www.chron.com/dispatcher/mpl/metropolitan/7670889.html>). " Houston Chronicle. July 26, 2011. Retrieved on July 27, 2011.
17. [^] "Our Parks O-Z (<http://www.houstonx.gov/parks/ouparks-O-Z.html>). " City of Houston. Retrieved on January 3, 2009.
18. [^] "Selena Quintanilla Perez Community Center (<http://www.houstonx.gov/parks/cc-selenaperez.html>). " City of Houston. Retrieved on January 3, 2009.
19. [^] "Our Parks A-F (<http://www.houstonx.gov/parks/ouparks-A-F.html>). " City of Houston. Retrieved on April 24, 2009.
20. [^] "Our Parks O-Z (<http://www.houstonx.gov/parks/ouparks-O-Z.html>). " City of Houston. Retrieved on April 24, 2009.
21. [^] "Trustee Districts Map (<http://www.houstonisd.org/HSDCconnectDS/v/index.jsp?vgnextoid=b591745faf105110VgnVCM10000028147fa6RCRD&vgnextchannel=245b2f796138c010VgnVCM10000052147fa6RCRD>). " Houston Independent School District. Retrieved on November 11, 2008.
22. [^] "Eliot Elementary Attendance Zone (<http://dept.houstonisd.org/ab/SchoolBoundaryMaps/EliotES.pdf>). " Houston Independent School District. Retrieved on April 4, 2009.
23. [^] "welcome... (<http://es.houstonisd.org/rmartinezes/index.html>)" Raul C. Martinez Elementary School. Retrieved on April 4, 2009.
24. [^] "R. Martinez Elementary Attendance Zone (<http://dept.houstonisd.org/ab/SchoolBoundaryMaps/RMartinezES.pdf>). " Houston Independent School District. Retrieved on April 4, 2009.
25. [^] "Pugh Elementary Attendance Zone (<http://dept.houstonisd.org/ab/SchoolBoundaryMaps/PughES.pdf>). " Houston Independent School District. Retrieved on April 4, 2009.
26. [^] "Scroggins Elementary Attendance Zone (<http://dept.houstonisd.org/ab/SchoolBoundaryMaps/ScrogginsES.pdf>). " Houston Independent School District. Retrieved on April 4, 2009.
27. [^] "McReynolds Middle Attendance Zone (<http://dept.houstonisd.org/ab/SchoolBoundaryMaps/McReynoldsMS.pdf>). " Houston Independent School District. Retrieved on April 4, 2009.
28. [^] "Wheatley High School Attendance Zone (<http://dept.houstonisd.org/ab/schoolboundarymaps/WheatleyHS.pdf>). " Houston Independent School District. Retrieved on April 4, 2009.
29. [^] a b "School Histories: the Stories Behind the Names (<http://www.houstonisd.org/HSDCconnectDS/v/index.jsp?vgnextoid=0afe09c28afc3110VgnVCM10000028147fa6RCRD&vgnextchannel=2e2b2f796138c010VgnVCM10000052147fa6RCRD>). " Houston Independent School District. Retrieved on September 24, 2008.
30. [^] "Resurrection School (<http://www.archghn.org/default.asp?id=6&pid=20>). " Roman Catholic Archdiocese of Galveston-Houston. Retrieved on September 8, 2012.
31. [^] Texas Education Code, Section 130.182, "Houston Community College System District Service Area".
32. [^] "Tuttle Neighborhood Library (http://www.houstonlibrary.org/branches/tut_home.html). " Houston Public Library. Retrieved on April 4, 2009.
33. [^] Rodriguez, Lori. "Ben Reyes: His old friends hardly know him anymore (http://www.chron.com/CD/archives/archive.mp?pid=1991_786778). " Houston Chronicle. June 2, 1991. A1.

External links

- Denver Harbor Civic Club (<http://www.dhcc.ws/>)
- "The Denver Harbor Collaborative (http://www.slehc.org/HNI/HNI_Summaries/Denver_Harbor_Collaborative.cfm).". St. Luke's Episcopal Health Charities.
- Where the Hell is Podunk, Texas? (<http://podunktexas.com/>)

Retrieved from "http://en.wikipedia.org/w/index.php?title=Denver_Harbor,_Houston&oldid=599950021"

Categories: Neighborhoods in Houston, Texas

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9235 Edgebrook
Houston, Texas 77075

713-941-2924
713-941-8932f



Dear Laura Menefee, the house on 1815 Cortlandt will be able to hold its structural integrity during the move and be a sound structure on completion of work.

9235 Edgebrook
Houston, Texas 77075

713-941-2924
713-941-8932f



AGREEMENT TO MOVE BUILDING

This Agreement is made and entered into this April 8th, 2014, by and between Cherry House Moving Company, Inc., herein referred to as "Cherry", and Laura Menefee and Paula Johnson, herein referred to as "Owner", for the move of one (1) building located at 1815 Cortlandt Houston, Texas, to be relocated to Owner's property at 1026 Lathrop Houston, Texas.

CONDITIONS AND TERMS OF DELIVERY

The parties hereby agree and acknowledge that Cherry agrees to do the following work:

1. Load the building now located at above referenced location.
2. Move the building to above stated location.
3. Provide, install and place building on a level foundation consisting of 4" x 16" x 16" concrete base pads, 8" x 8" x 16" hollow concrete foundation blocks and 8" x 16" x 2", 3" and/or 4" concrete cap blocks. Foundation settings may be 1 base and 2 blocks in height on 7' centers or better on all load bearing sills. Concrete cap blocks, wood and/or steel shims may be used to accommodate for variance in ground elevation and floor structure. Existing foundation materials to be transported to receiving site and reused as deemed acceptable by Cherry. Any additional foundation materials deemed necessary by Cherry will be furnished by Cherry **at Owner's additional expense.** (See attached drawing, if applicable)
4. At Owner's request, Cherry will repair and/or replace any rotted floor joists and sills located in the building at an additional labor cost of \$5.00 per linear ft. for floor joists and \$10.00 per linear ft. for sills. **Cost of these materials to be at Owner's additional expense.** Exterior siding, where removed by Cherry will not to be replaced by Cherry. Porches and masonry portions of building that are removed are not to be reinstalled by Cherry.
5. Cherry will furnish labor, equipment, moving permits, escorts, worker's compensation, and general liability insurance to complete contract.

It is agreed and acknowledged that Owner:

1. Is responsible to furnish any required foundation and/or building permit(s). Owner will also provide disconnects to building, as necessary to move building.
2. Is responsible to insure that the building meets any and all applicable city, county, municipal, or state codes or ordinances.
3. Is responsible for the care and maintenance of the building from the time the building is delivered to the site to include but not be limited to taking any and all steps necessary to protect the structural integrity of the building to include the roof and exterior walls and structures.
4. Is to prepare the new location site on or before delivery date as specified by Cherry and to stake the four (4) corners of the proposed building location.
5. Is responsible for providing proper ingress and egress onto the property and agrees to be responsible for any cost incurred due to Owner's failure to provide such ingress and egress.

The parties further agree and acknowledge that Cherry is not responsible:

1. For contents of building, disconnection of utilities, removal/relocation of porches, removal/relocation of steps, removal/relocation of canopies, removal of exterior skirting, reinstallation of fences, plumbing electrical, floor coverings, fences around building, floor furnace if any, sheet rock, tile, exterior siding, minor roof damage, exterior doors, gutters, screens, porches, fireplace/furnace, rutting of ground at either location, windows, or interior of buildings;
2. For any and/or all back due taxes, liens, legal encumbrances, deed restrictions, foundation permit, elevation of lot, or site preparation of either location;
3. To insure that the building once delivered and assembled at the delivery site/location meets any applicable city, county, municipal, or state codes or ordinances regarding the structure;
4. For damages to the building to include but not be limited to plumbing, electrical, floor coverings, fences around building, floor furnace, sub-flooring, sheetrock, tile, exterior siding, minor roof damage, Formica, shrubbery and /or landscaping, interior or exterior doors, gutters, screens, porches, fireplace, rutting of ground at either location, windows, or interior of building;

5. For the installation of any covering to the building to include but not be limited to the roof, any overhangs, and exterior walls and structures;
6. For the preservation and condition of this building in the event of damage caused by fire, vandalism or Acts of God; and
7. For any and all back due taxes, liens, legal encumbrances, deed restrictions, foundation permit(s), elevation of lot, or site preparation at the new location.

Scheduling and time frame for this project will be controlled solely by Cherry. Owner understands that delays due to inclement weather or other unfavorable conditions should be expected and will alter Cherry's schedule accordingly.

Cherry reserves the right to deem this contract null and void, if in the Cherry's opinion there are obstacles and/or circumstances that would make it unfeasible to deliver the above referenced building or complete this contract. In this event all down payments on the building will be refunded, but the Owner understands and agrees that any title company or other charges or fees the Owner has incurred will be at his/her own expense and Cherry will not be responsible for reimbursement of these costs.

CHERRY MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, except as to its performance as set forth in this Agreement. Cherry neither assumes nor authorizes any person to assume for Cherry any other liability in connection with the sale or use of the building sold, and there are no oral agreements or warranties collateral to or affecting this agreement. CHERRY MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE.

OWNER ACKNOWLEDGES, AFFIRMS AND ACCEPTS THAT CHERRY MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, except as to its performance as set forth in this Agreement. Cherry neither assumes nor authorizes any person to assume for Cherry any other liability in connection with the sale, CONSTRUCTION or use of the building, and there are no oral agreements or warranties collateral to or affecting this agreement. CHERRY MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE.

Owner has the right to examine the building on arrival and has fifteen (15) days from the date the building is delivered to the site to notify Cherry of any claim for damages and/or complaint regarding the condition of the building or Cherry's performance/work product. The notice must specifically set forth the basis of the claim. Failure to provide this notice to Cherry within the stipulated period of time or to set forth specifically the basis of Owner's claim will constitute irrevocable acceptance of the building and the services provided by Cherry.

Owner hereby agrees to protect, indemnify, save and hold Cherry harmless from any

and all claims demands, causes of action, and lawsuits of each and every character and kind that may arise out of the performance of this Agreement, including but not limited to Owner's failure to adhere to, meet, and/or conform with any and all city, county, municipal, or state codes or ordinances, from or incident to the subject matter of this Agreement contemplated hereunder, whether or not caused by the sole, joint or concurrent negligence of Owner, Cherry, or third parties.

This Agreement embodies the entire Agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties regarding the transaction and the house in question. No variation, modification or alteration of the terms of this Agreement shall be binding upon any party unless set forth in writing and executed by all parties.

Any dispute between the parties arising from this Agreement which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction. The prevailing party in any legal proceeding related to this Agreement is entitled to recover reasonable attorney's fees and all costs of such proceeding incurred by the prevailing party.

The obligations set forth herein may be enforced in any court with jurisdictional authority in Harris County, Texas.

NOTICE: YOU ARE RESPONSIBLE FOR SATISFYING THE TERMS AND CONDITIONS OF THIS AGREEMENT AND FOR READING AND UNDERSTANDING THIS AGREEMENT. ONCE YOU EXECUTE THIS AGREEMENT YOU WILL BE CONSIDERED TO HAVE READ AND UNDERSTOOD THIS AGREEMENT AND ITS TERMS AND CONDITIONS. IF YOU FAIL TO MEET THESE TERMS AND CONDITIONS YOU COULD BE IN DANGER OF LOSING YOUR INTEREST IN THE BUILDING. BE SURE AND KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.

Murley HOUSE LEVELING & FOUNDATION REPAIR COMPANY

Office: 936-672-0956

CONTRACTOR AGREEMENT

THIS AGREEMENT made on the 8 day of April 2014 by and between MURLEY HOUSE LEVELING & FOUNDATION REPAIR COMPANY, hereinafter called the Contractor and _____ hereinafter called the Owner. The Contractor and the Owner for the consideration named agreed as follows:

ARTICLE 1 SCOPE OF WORK

The Contractor shall furnish all of the materials and labor necessary to perform the work as described below, as it pertains to said work requested by Owner and is to be performed on the property located at: 1815 Courtlandt Avenue to 1026 Lathrop in Houston, Texas Zip Code: 77020
Hm Phone: () Office: (713) 861-0918 Cell: ()

The Contractor agrees to do the following: move home from 1815 Courtlandt to 1026 Lathrop. In My opinion Foundation is in good condition and should have no issues in moving to Lathrop location

Raise House: 1 Block 2 Blocks 3 Blocks
 Level existing foundation so that doors will open and shut Furnish all blocks and bases

Contractor will NOT replace any rotten sill(s) or floor joist unless first requested by Owner in writing. Accordingly, rotten sill(s) or floor joist will be replaced at the additional charge of \$ 15.00 per foot, per sill or floor joist. This cost is over and above the amount due quoted in Article 2. Sill or floor joist replacement cost will also be DUE IN FULL UPON COMPLETION of said work. Additionally, Contractor shall NOT be held responsible for ANY other work/duties, and/or defaults (interior or exterior) which may naturally occur as a result of the leveling or raising job to include but not limited to, cracked sheet rock (drywall), cracked windows, any pipes that may break or damage to siding, etc. unless specified in writing below:

ARTICLE 2 PAYMENT AGREEMENT

Owner agrees to pay Contractor (Cash or Cashier's Check) the total sum of \$ 17,500.00 dollars, with a down payment of \$ 5,000.00 dollars which is due immediately upon signing the contract. The Owner additionally agrees to pay the Contractor (Cash or Cashier's Check) the balance due of \$ 6,500.00 upon completion of job. Contractor shall NOT be held liable for any delay due to circumstances beyond his control such as Acts of God, casualty or general unavailability of required materials, and is NOT responsible for ANY work which is not listed in Article 1. No other terms or conditions shall apply other than written in this contract regarding PAYMENT DUE IN FULL upon start of work described in this contract. Additionally, failure by Owner to pay the entire amount due on time will result in a late charge fee of \$ 50.00 dollars per day until the entire amount due has been PAID IN FULL.

In the event legal action is necessary to collect the money due to the Contractor by this Contract, the Owner agrees to assume all attorney's fees, court costs, recording fees and all legal fees derived from such actions. Both parties agree that legal action shall be conducted in an appropriate office in Harris County.

Owner agrees to: Disconnect all utilities and pay for all material to set down home

Contract signed in agreement:
5/9/2014
Owner

Contractor

CITY OF HOUSTON

Houston Archaeological and Historical Commission Planning & Development Dept.

Subdivisions, etc., submit them. The proposed Houston Heights Historic District East qualifies for historic district designation under Criteria 1, 3, 4, 5, 6 and 8.

HISTORY AND SIGNIFICANCE OF HOUSTON HEIGHTS AND HOUSTON HEIGHTS HISTORIC DISTRICT EAST

The large urban neighborhood of Houston Heights covers approximately 1,756 acres just two-and-one-half miles northwest of Downtown Houston. One of the first planned suburbs in the state, Houston Heights has retained its architectural and civic identity to an unusual degree despite the subsequent loss of historic buildings and adverse development. This has been accomplished in spite of its location in one of the fastest growing cities in the United States. Houston Heights presents a Whitman's Sampler of turn-of-the-century architectural styles. Several notable late-Victorian mansions and substantial early 20th-century public, ecclesiastical, fraternal and commercial buildings serve as the anchors of the neighborhood. Nevertheless, the real strength of Houston Heights rests in its wide array of essentially vernacular, middle-class, and domestic architecture of the period 1893-1941.

**INVENTORY
 HOUSTON HEIGHTS HISTORIC DISTRICT EAST
 HOUSTON, TEXAS**

PROPERTY ADDRESS		LOT/TRACT*	BLK	CIRCA YR BLT	BLDG STATUS	STYLE
1525	Cortlandt	Lts 5 & 6	139	1911	C	Tudor Revival
1526	Cortlandt	Lt 19	138	1905	PC	Modified L-Plan Queen Anne
1528	Cortlandt	Lt 20	138	1920	PC	Bungalow
1534	Cortlandt	Lt 21	138	1920	PC	Bungalow Craftsman
1541	Cortlandt	Lt 4	139	1915	PC	Bungalow
1544	Cortlandt	Lt 22	138	1920	PC	Bungalow Craftsman
1545	Cortlandt	Lt 3	139	1915	PC	Bungalow Craftsman
1546	Cortlandt	Lt 23	138	1920	PC	Bungalow
1547	Cortlandt	Tr 2B-1	139	1984	NC	Townhouse
1548	Cortlandt	Tr 24 A	138	1940	PC	English Cottage
1549	Cortlandt	Tr 2 B	139	1983	NC	Townhouse
1551	Cortlandt	Tr 1 B & 2 C	139	1984	NC	Townhouse
1553	Cortlandt	Lt 10	139	1984	NC	Townhouse
1603	Cortlandt	Lt 13 & Tr 12A	116	1910	NC	Folk Victorian
1607	Cortlandt	Lt 11 & Tr 12	116	2005	NC	New Single Family
1610	Cortlandt	Trs 15 A & 16A	115	1920	PC	Bungalow
1615	Cortlandt	Lt 10 & Tr 9A	116	1927	NC	Bungalow Remodeled
1616	Cortlandt	Lt 17 & Tr 16	115	1913	PC	Modified L-Plan Queen Anne/ Craftsman
1619	Cortlandt	Lt 8 & Tr 9	116	1916	NC	Bungalow Remodeled
1620	Cortlandt	Lt 18 & Tr 19	115	1915	C	Bungalow Craftsman
1626	Cortlandt	Lt 20 & Tr 19A	115	1917	PC	Modified Queen Anne
1627	Cortlandt	Lt 7 & S 3ft of Lt 6	116	1994	NC	New Single Family
1629	Cortlandt	N 47 Ft of Lt 6	116	1915	PC	Modified L-Plan
1630	Cortlandt	Lt 21	115	1917	PC	Bungalow Craftsman
1635	Cortlandt	Lt 5	116	1920	NC	Bungalow Craftsman
1636	Cortlandt	Lt 22	115	Lot	V	Lot
1637	Cortlandt	Lt 4	116	1915	C	Bungalow Craftsman
1638	Cortlandt	Lt 23	115	1918	PC	Bungalow Craftsman
1641	Cortlandt	Lt 3	116	1915	C	Bungalow Craftsman
1642	Cortlandt	Lt 24	115	1918	PC	Bungalow Craftsman
1647-49	Cortlandt	Lt 2	116	1915	PC	Bungalow Craftsman Duplex
1648	Cortlandt	Lt 25	115	1910	PC	Queen Anne Cottage
1650	Cortlandt	Lt 26	115	1937	PC	Colonial Revival
1651	Cortlandt	Lt 1	116	1905	PC	Modified L-Plan Queen Anne
1801	Cortlandt	Lt 13, Tr 12A	105	1955	NC	Apartments
1802	Cortlandt	Trs 14, 15B	106	1915	PC	Amer Foursquare
1810	Cortlandt	Lt 16, Tr 15	106	1915	PC	National Folk Pyramidal Craftsman
1813	Cortlandt	Trs 11, 12 A	105	1920	PC	Bungalow
1815	Cortlandt	Trs 10 & 11A	105	1920	PC	Bungalow
1816	Cortlandt	Lt 17 & S 5ft of Lt 18	106	1930	C	Modified Foursquare Brick
1817	Cortlandt	Lt 9, Tr 10A	105	1920	PC	Bungalow
1819	Cortlandt	Lt 8	105	1920	PC	Hipped Bungalow

Houston Heights East Historic District Development Review Committee (ad-hoc)

Monthly Review Report

The DRC report for Certificate of Appropriateness Applications is as follows:

Month: Apr-14

Date of Report: 24-Apr-14

HAHC Action	Site Address	APPLICANT	COMPANY	PROPOSED ACTIVITY	DRC Response	Votes
	1815 Cortlandt	Jeremy McFarland	Brickmoon Des.	Relocate existing house to outside HHEHD	Support No Object Object	1 3
	1817 Cortlandt	Jeremy McFarland	Brickmoor Des.	2-Story Addition to 1-story contrib. house	Support No Object Object	1 1
	1820 Heights Blvd.	Kevin Walton	Rob. Sanders Homes	New 2-story residence and detached carport	Support No Object Object	1 1
	1851 Cortlandt	Gail Schorre	Morningside Architects	1-story addition to exist 1-story contributing house	Support No Object Object	3 1
	1851 Cortlandt	Gail Schorre	Morningside Architects	New Const. Accessory structure	Support No Object Object	3 1

See Attached Detailed Response

5/9/2014

Kent Marsh

From: Brie Kelman [REDACTED]
Sent: Saturday, April 19, 2014 8:12 PM
To: Kent Marsh
Subject: Re: April HAHC meeting

Hi Kent,

Please see my input below. I will try to remember to check to see if the last 2 reports are up on Monday to write back

- 1815 Cortlandt St, Relocation-Residence - Deferral
 - Support
- 1817 Cortlandt St, Alteration-Addition - Deferral
 - I supported last time, so I'm assuming I will support again
- 1820 Heights Blvd, New Construction-Residence - Deferral
 - I supported last time, so I'm assuming I will support again
- 1851 Columbia St, Alteration-Addition
 - Support
- 1851 Columbia St, New Construction-Accessory Structure
 - Support

On Sat, Apr 19, 2014 at 7:59 AM, Kent Marsh <[REDACTED]> wrote:
3 of the 5 staff reports are listed. Please review and comment. Kent Marsh

Sent from my Verizon Wireless 4G LTE DROID

Kent Marsh

From: Joy Tober [REDACTED]
Sent: Tuesday, April 22, 2014 8:28 PM
To: Kent Marsh
Subject: Re: April HAHC meeting

Kent, here are my comments for this month's agenda items.

1815 Cortlandt - Objection, it was not unusual for houses to be relocated within Houston Heights, this particular house is still within the period of significance and is architecturally and historically compatible with the district and therefore should not be relocated. According to records the residence was assessed in 1941, falling within the period of significance for the district. The intended relocation site is not compatible with the historical and architectural character of the building and has absolutely not protection and no guarantee that it will not be demolished once relocated. Removing the residence from the district diminishes the integrity of the district by essentially demolishing a contributing structure.

1820 Heights - No objection

1851 Columbia - Support

1851 Columbia (Accessory Structure) - No objection, but I do have concerns about the 1' side setback, even if the current neighboring property owner has agreed to this, future owners might have concerns.

Thanks
Joy

On Sat, Apr 19, 2014 at 7:59 AM, Kent Marsh <[REDACTED]> wrote:
3 of the 5 staff reports are listed. Please review and comment. Kent Marsh

Sent from my Verizon Wireless 4G LTE DROID

Kent Marsh

From: Jonathan Smulian [REDACTED]
Sent: Monday, April 21, 2014 10:58 AM
To: Kent Marsh
Subject: RE: April HAHC meeting

1815 Cortlandt -Object

1817 Cortlandt -no information found
1820 Heights Blvd.-no information found
1851 Columbia - support addition
1851Columbia- new structure -support but suggest should be on pier and beam as in main residence and above addition

From: Kent Marsh [mailto:[REDACTED]]
Sent: Saturday, April 19, 2014 7:59 AM
To: Mitch McFarland; Mark R. Williamson; [REDACTED]; Charlie; Jonathan Smulian; Brie Kelman; Zucker, Jim; Joy Tober
Subject: April HAHC meeting

3 of the 5 staff reports are listed. Please review and comment. Kent Marsh

Sent from my Verizon Wireless 4G LTE DROID

Review of HAHC Applications for Certificate of Appropriateness Within the Houston Heights East Historic District Submitted for the April 24, 2014 HAHC Meeting

Review by J. Kent Marsh, AICP, 1538 Arlington St., Houston Heights East Historic District

1815 Cortlandt – Relocation

I object to the granting of this Certificate of Appropriateness for the relocation of this structure for the following reasons:

1. The existing structure is considered a contributing structure to the HHEHD
2. The existing structure contributes to the historic context of the immediate neighborhood
3. The proposed new location for the historic structure is not compatible with its historic context
4. No proof has been provided by the applicant that the existing structure needs to be removed
5. The existing structure was constructed within the same timeframe as the construction range of other structures within the HHEHD
6. Removal and relocation of the existing structure would reduce the quality of the existing historic context of the neighborhood
7. Once the historic structure is removed there is no way to restore the historic character of the neighborhood and the HHEHD to the same level of historic significance and the District will always be less historic
8. None of the 4 criteria for relocation of a contributing historic structure have been met

1817 Cortlandt – Relocation and Addition

I object to the granting of this Certificate of Appropriateness for the following reasons:

1. The proposed addition is visually overpowering the existing historic structure both vertically and to the side resulting in the diminished prevalence of the existing historic structure

PAGE 2

2. The proposed removal of a significant portion of the floor structure of the existing structure is not necessary and such removal would constitute a significant reduction of the historic character of the existing structure similar to the removal of interior original lapped siding that contributes to the structural integrity of the historic structure
3. The proposed window modifications for the existing structure are not necessary and would reduce the historic character of the existing structure
4. The scale and mass of the proposed addition will significantly reduce the historic character of the neighborhood and the HHEHD

1820 Heights Boulevard – New Construction

I object to the granting of this Certificate of Appropriateness for this new construction for the following reasons:

1. The proposed 2nd floor covered porch on the west elevation facing Heights Blvd. is not a typical element found on other existing contributing 2-story structures within the HHEHD. This 2nd floor porch is not necessary and contributes to the excessive massing and volume on the west elevation
2. The submission of just this portion of the overall property does not provide information regarding the entire development and the integration of this proposal within the context of the entire property. Piecemeal approvals should not be granted

1851 Columbia – Addition

I object to the granting of this Certificate of Appropriateness for the following reasons:

1. The proposed addition projects beyond the existing historic structure on the north and south elevations. These extensions are not necessary and reduce the visual significance of the existing historic structure. The proposed additional square footage for the addition could be provided in an alternate manner that would not distract for the visual prominence of the existing historic structure

PAGE 3

1851 Columbia – New Accessory Structure

No objections. This proposed structure does not distract from the existing historic structure on site

A handwritten signature in black ink, reading "J. Kent Marsh". The signature is written in a cursive style with a large, looping initial "J".



Memorial City Plaza II
820 Gessner, Suite 1570
Houston, TX 77024-4494

May 2, 2014

Mr. Patrick Walsh, Director
Planning and Development Department
611 Walker Street, 6th Floor
Houston, Texas 77002

*Via email: planningdepartment@houstontx.gov
Via hand delivery*

**Re: Notice of appeal to the City of Houston Planning Commission; 1815 & 1817 Cortlandt Street.
Our File No.: 5237-1**

Dear Mr. Walsh,

Please accept the enclosed notices of appeal to the City of Houston Planning Commission for the properties located at 1815 and 1817 Cortlandt Street.

Very truly yours,

RANDLE LAW OFFICE LTD., L.L.P.

A handwritten signature in black ink that reads "Timothy B. Kirwin". The signature is written in a cursive style.

Timothy B. Kirwin

/tbk

Enclosures (as stated)

cc: City of Houston City Secretary
900 Bagby, Public Level
Houston, Texas 77002
(via hand delivery)

T 281-657-2000

F 832-476-9554

www.jgradyrandlepc.com

**NOTICE OF APPEAL TO THE CITY OF HOUSTON PLANNING
COMMISSION FROM A DENIAL OF A CERTIFICATE OF
APPROPRIATENESS TO RELOCATE A STRUCTURE AT 1815
CORTLANDT STREET (HISTORIC DISTRICT: HOUSTON
HEIGHTS EAST) BY THE HOUSTON ARCHEOLOGICAL AND
HISTORICAL COMMISSION ON APRIL 24, 2014.**

*Sent via email to Patrick.walsh@houstontx.gov and
Personal delivery to: 611 Walker St, 6th Floor, Houston, TX 77002*

To: Patrick Walsh, Director, Department of Planning and Development, City of Houston

From: Jeremy McFarland, Brick Moon Design (Applicant) for Laura Menafee (Owner)

Drafted by: Timothy Kirwin, Attorney for Applicant and Owner

Re: Appeal Notice

Date: May 2, 2014

Per Section 33-253 of the City of Houston's Code of Ordinances, Applicant and Owner file this Notice of Appeal to the City of Houston Planning Commission from a denial of a Certificate of Appropriateness to relocate a structure at 1815 Cortlandt Street by the Houston Archeological and Historical Commission on April 24, 2014.

Grounds for appeal:

1. At the time of filing this appeal, Applicant has not been provided with the HAHC findings regarding denial of the certificate of appropriateness as required by law despite repeated attempts to secure such information.

HAHC is required by law to make certain findings when it denies a certificate of appropriateness. Section 33-240 of the City of Houston Code of Ordinances provides in pertinent part that "[t]o approve or disapprove an application for a certificate of appropriateness, the HAHC shall consider and make findings with respect to the relationship between the proposed activity and the applicable criteria. The HAHC shall take into consideration the current needs of the applicant and shall be sensitive to the property owner's financial condition in determining whether to issue a certificate of appropriateness."

An Open Records Request was submitted to the City asking for a copy of the HAHC findings. See email attached. I also wrote Diane DuCroz asking her to provide a

copy of such findings so that I could articulate the grounds for this appeal. See email attached. Moreover, I telephoned the City's preservation office on three (3) occasions in an attempt to secure these HAHC findings. The staff member who was working with applicant, Ms. Harris-Finch, did not return my call. I called the next day and her voice mail had changed to state she was out of town. I called back and left a voice mail with the staff. I did receive a call back but was told that I needed to submit questions regarding the appeal to Diane DuCroz. When I did not get a response to my email to Ms. DuCroz, I telephoned her the next morning at approximately 9:30 a.m. I was told she was in a meeting and would call me back. I explained that I needed the HAHC findings in order to draft an appeal.

I did receive a document at 2:30 p.m. from the planning department which was a copy of a portion of the staff report which stated "Denied" next to HAHC Action, but again, provided no findings as to why the HAHC denied the Certificate of Appropriateness as required by law. See email attached.

I also asked when the HAHC meeting video would be available to view on the City's website as it had been over a week and other meetings which occurred as early as the day before were uploaded and available to view. Staff did not know why such meeting was not available.

Finally, a request for the complete staff report was made to the City, but has not been furnished at this time.

Therefore, because no findings have been provided by the City, I can only assume that no findings exist and thus HAHC failed to comply with the law to provide the Applicant with findings as to why the HAHC denied the Certificate of Appropriateness for 1815 Cortlandt Street.

Therefore, we ask this Commission to reverse such denial and grant the Certificate of Appropriateness to relocate the house at 1815 Cortlandt Street because the HAHC failed to follow the procedures as set forth in the City's Code of Ordinances and deprived the Applicant of the required notice of such denial.

2. In the alternative, if this Commission declines to issue the Certificate of Appropriateness based on the grounds articulated above, we must speculate as to why the HAHC might have denied the Certificate of Appropriateness to relocate the house at 1815 Cortlandt Street.

Section 33-243 of the City of Houston Code of Ordinances provides as follows:

"(a) The HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, or contributing structure

upon finding that the application satisfies one or more of the following criteria:

- (1) The landmark, protected landmark, or contributing structure:
 - a. Has architectural or historical value independent of its physical location that will not be diminished with relocation;
 - b. Can be moved without significant damage to its physical integrity;
 - c. Will be relocated to an area that is compatible with the historical and architectural character of the landmark, protected landmark, or contributing structure; and
 - d. If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.
 - (2) The relocation is necessary to protect the landmark, protected landmark, or contributing structure from demolition resulting from a public improvement project;
 - (3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-247(c) of this Code; or
 - (4) The applicant has established unusual or compelling circumstances pursuant to section 33-247(d) of this Code.
- (b) Alternatively, the HAHC shall issue a certificate of appropriateness for relocation if relocation of the landmark, protected landmark, or contributing structure has been identified as an alternative to demolition pursuant to section 33-247(f) of this Code.”

This house was not original to the location of 1815 Cortlandt Street, but was moved to this location in the 1970s. The information contained in District’s designation contained factual errors regarding the date this structure was built. Because the house was not built on the lot which it sits now and was built far later than indicated by the District’s designation, the house is not forever tied to 1815 Cortlandt. The house resided outside the District for thirty years and the historic value of the house is not solely associated with the District. Applicant proposes to move the house to the Denver Harbor area of Houston as this area has homes consistent with the age and architectural style of this house. Even staff acknowledges in the staff report that the house fits the style found in Denver Harbor.

Next, staff states that removal will diminish the historic value of the District. Under this criteria, no structure would ever be approved for removal because each removal would diminish the inventory rendering it impossible to overcome this criteria.

Moreover, Applicant plans to construct a new house at 1815 Cortlandt Street that reflects the architecture of the Houston Heights Historical District as evidenced by other homes designed by Brick Moon Design. The

Applicant will be required to have any building plans approved by the HAHC; therefore, this Commission has a guarantee that the Applicant cannot build just any style of house but must conform to the design of houses in the District as set forth by City ordinances and as approved by the HAHC.

Based on satisfying Section 33-243 of the City's Code of Ordinances, this portion of the law, we ask that the Planning Commission reverse the denial of a Certificate of Appropriateness for 1815 Cortland Street and allow the house to be relocated.

Given the City's failure to timely respond to our request for information relating to this appeal, applicant reserve the right to amend this Appeal Notice within the time allowed.

Timothy Kirwin

From: Timothy Kirwin
Sent: Friday, April 25, 2014 2:15 PM
To: 'patricia.benavides@houstontx.gov'
Cc: Chris Nichols
Subject: Open Records Request

Importance: High

Please consider this an Open Records Request under the Texas Public Information Act for the findings of the Houston Archeological and Historical Commission findings relating to the denial of certificates of appropriateness at their April 2014 meeting

relating to or pertaining to 1815 Cortlandt and 1817 Cortlandt.

If you have any questions, please give me a telephone call at the number below.

Timothy B. Kirwin
Randle Law Office Ltd., L.L.P.
Memorial Plaza II
820 Gessner, Suite 1570
Houston, Texas 77024
(281) 657-2000- Telephone
(832) 476-9554- Facsimile
[Email](#) | [Profile](#) | [Website](#) | [V-Card](#)



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Timothy Kirwin

From: Timothy Kirwin
Sent: Thursday, May 01, 2014 4:16 PM
To: diana.duCroz@houstontx.gov
Subject: Appeal questions.

Ms. DuCroz. I will be filing an appeal to the planning commission regarding 1815 and 1817 Courtland denials of certificate of appropriateness' of the HAHC.

I want to make sure I comply with the city's appeal procedures.

1. The deadline to appeal is tomorrow, but I have not received a copy of the findings of the HAHC. I placed an open records request but have not heard back. It will be difficult to state the grounds for the appeal without the HAHC reasons for such denials. Can you assist with providing a copy of the findings?

2. We would like to make the May 15 planning meeting date. Do we need to place signs on the property like we did for the HAHC meeting? If the appeal is submitted tomorrow, do you see any reason we would not be heard at the next regular planning commission meeting?

Thank you. If you need more information, please give me at call at 281-657-2000.

Tim Kirwin.
Attorney for owner
Randle Law Office
820 Gessner, Suite 1570
Houston, TX 77024

Timothy Kirwin

From: Benavides, Patricia - PD <Patricia.Benavides@houstontx.gov>
Sent: Friday, May 02, 2014 2:34 PM
To: Timothy Kirwin
Subject: Open Records Request
Attachments: Iiq_1815_Cortlandt_Relocation_ACTION - Copy.pdf; Iir_1817_Cortlandt_Addition_ACTION - Copy.pdf

Please see the attached documents pertaining to your open records request dated April 25 regarding the denial of the COA for 1815 Cortlandt and 1817 Cortlandt.

If you have any questions, please let me know.

Thank!

Patricia A. Benavides

City of Houston Planning & Development Department, Public Information Office
611 Walker, 6th Floor, Houston, Texas 77002, (713) 837-7715

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PLATTRACKER

E-mail updates at plattrackeradmin@houstontx.gov

1815 CORTLANDT STREET

GROUND FOR APPEAL

NO. 1

PROCEDURAL DEFECTS

Section 33-240 of the City of Houston Code of Ordinances provides in pertinent part that “[t]o approve or disapprove an application for a certificate of appropriateness, the HAHC shall consider and make findings with respect to the relationship between the proposed activity and the applicable criteria.”

-The HAHC did not make any findings, but instead simply rubber stamped a staff report. One Commission member began to make findings when he stated why he thought the Certificate of Appropriateness should not be granted; however, a motion was made to adopt the staff report without analyzing “the relationship between the proposed activity and the applicable criteria.”

All you have in front of you is the word “Denied” next to HAHC action.

-Even if the Planning Commission finds that a blanket adoption of the staff report meets the requirements of the Ordinance, there is a second sentence to the Ordinance that states the “HAHC shall take into consideration the current needs of the applicant and shall be sensitive to the property owner’s financial condition in determining whether to issue a certificate of appropriateness.” There is nothing in the record that indicates that the HAHC performed this analysis. These are not just suggestions. This is the adopted law. Since this was not done, the HAHC failed to comply with the Ordinance and we ask this Commission to reverse the denial of the Certificate of Appropriateness.

GROUNDNS FOR APPEAL

NO. 2

**Applicant satisfies
the Ordinance
criteria.**

City of Houston Ordinance 33-243 set forth the requirements that Applicant can satisfy in order to move the house.

“Same—Relocation of landmark, protected landmark, or contributing structure.

(a) The HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, or contributing structure upon finding that the application satisfies one or more of the following criteria:

(1) The landmark, protected landmark, or contributing structure:

a. Has architectural or historical value independent of its physical location that will not be diminished with relocation;

b. Can be moved without significant damage to its physical integrity;

c. Will be relocated to an area that is compatible with the historical and architectural character of the landmark, protected landmark, or contributing structure; and

d. If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

(1) a. Has architectural or historical value independent of its physical location that will not be diminished with relocation;

It is undisputed that this house was built elsewhere and moved to its current location almost 30 years after it was built. This house has per se historical value independent of its physical location. It was moved once and can be moved again without diminishing its historical value. The HAHC report merely makes a conclusory statement that there is no independent historical significance and ignores the prior history of this house which was previously located at 502 West 20th Street.

Also, the report states that “no information has been provided to support that the structure would satisfy the landmark criteria to establish independent historic value, or the opportunity for protection if removed from the district.” The Ordinance does not require landmark designation prior to or after removal. Applicant is working with the potential buyer of the house to ensure the house survives. See Exhibit “A.”

APPLICANT SATISFIES THIS CRITERIA.

(1) b. Can be moved without significant damage to its physical integrity;

It is not in dispute that this house can be moved without significant damage to its physical integrity. If you believe that mere adoption of the staff report represents adequate findings, then staff has stated that this element is satisfied.

APPLICANT SATISFIES THIS CRITERIA.

(1) c. Will be relocated to an **area** that is compatible with the historical and architectural character of the landmark, protected landmark, or contributing structure; and

It is not in dispute that this house can be moved to an area that is compatible with the historical and architectural character of the contributing structure. Staff recommended denial of the Certificate of Appropriateness because the proposed block where the house would be moved was not compatible. Staff, however, affirms that the Denver Harbor neighborhood is compatible. There is no requirement under the Ordinance that the house be moved to a historic district. There is no requirement under the Ordinance that the house be moved to a block that is compatible. It is required under the Ordinance that the house be moved into an **area** that is compatible with the historical and architectural character of the contributing structure. Staff affirms such in their report.

APPLICANT SATISFIES THIS CRITERIA.

(1) d. If located in an historic district, can be relocated without **significantly** diminishing the integrity of the historic district in which it is located.

Please pay attention to the highlighted word in the Ordinance. Staff and the HAHC failed to use this word in analyzing whether the house relocation meets this criteria. By ignoring this word, staff and the HAHC place a higher threshold on Applicant in order to relocate the house.

Any removal from the District could, in theory, diminish the integrity of the historic district, but that is not the standard. The removal must **significantly** diminish the integrity. Here, the

house does not have original roof, windows, doors, siding, entrance, or foundation. See Exhibit "B."

We do not believe that staff nor HAHC applied the proper standard when evaluating this criteria, but even if this Commission does believe the proper criteria was applied, this house can be moved without significantly diminishing the integrity of the District. As noted above, this house was not original to the District, and there is almost nothing original as to the exterior envelope of the house.

WE ASK THE COMMISSION TO REVERSE THE DENIAL OF A CERTIFICATE OF APPROPRIATENESS FOR 1815 CORTLANDT.

February 12, 2014

Dear HAHC,

My Name is David Alvarez and I am writing today to acknowledge that I am the property owner of the lot at 1026 Lathrop Street in the historic Denver Harbor neighborhood of Houston. I am very interested in moving the existing home at 1815 Cortlandt Street to my lot on Lathrop. Laura Menefee has been kind enough to donate the house to me with the intention of moving it to my property and my goal is to maintain the current architectural characteristics, shape and historical integrity of the home. Interestingly, this house is very similar in shape and size as many other homes in my neighborhood, therefore it will fit in very nicely.

I was not able to be here today, but I wanted to be sure that my voice was heard in this matter and I am hopeful to be able to move this home to my property.

Best Regards,



David Alvarez

HARRIS COUNTY APPRAISAL DISTRICT
 REAL PROPERTY ACCOUNT INFORMATION
 0120260000034

Tax Year: 2013

 Print

Owner and Property Information			
Owner Name & Mailing Address:	ALVAREZ DAVID 9845 SHADY LN HOUSTON TX 77093-5540	Legal Description:	LTS 34 35 & 36 BLK 24 DENVER
		Property Address:	1026 LATHROP ST HOUSTON TX 77020

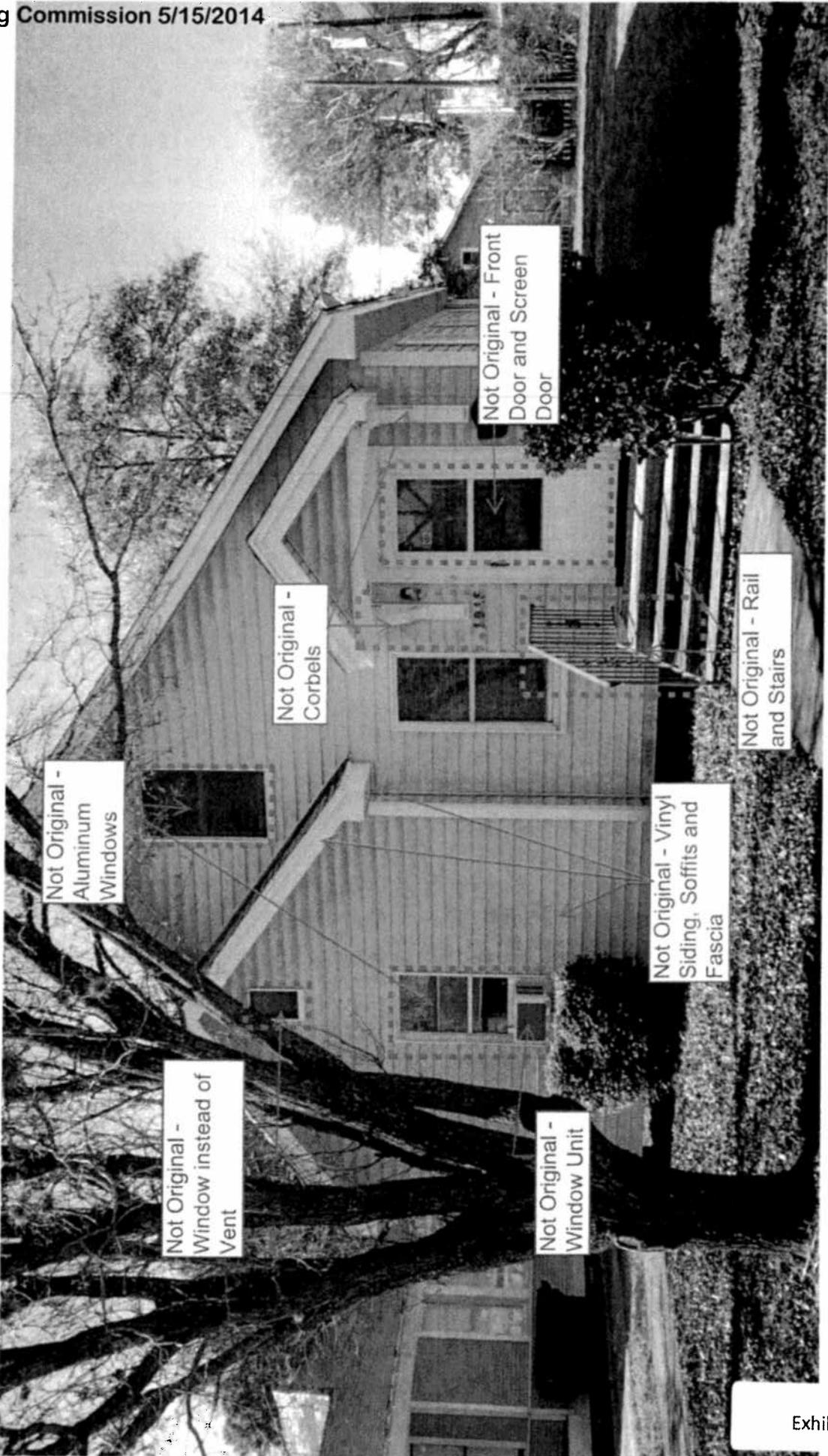
State Class Code				Land Use Code		
C1 -- Real, Vacant Lots/Tracts (In City)				1000 -- Residential Vacant		
Land Area	Total Living Area	Neighborhood	Neighborhood Group	Market Area	Map Facet	Key Map®
9,375 SF	0 SF	7112	1419	142 -- 1D North of Bayou	5558D	494H

Value Status Information			
Capped Account	Value Status	Notice Date	Shared CAD
No	Noticed	03/29/2013	No

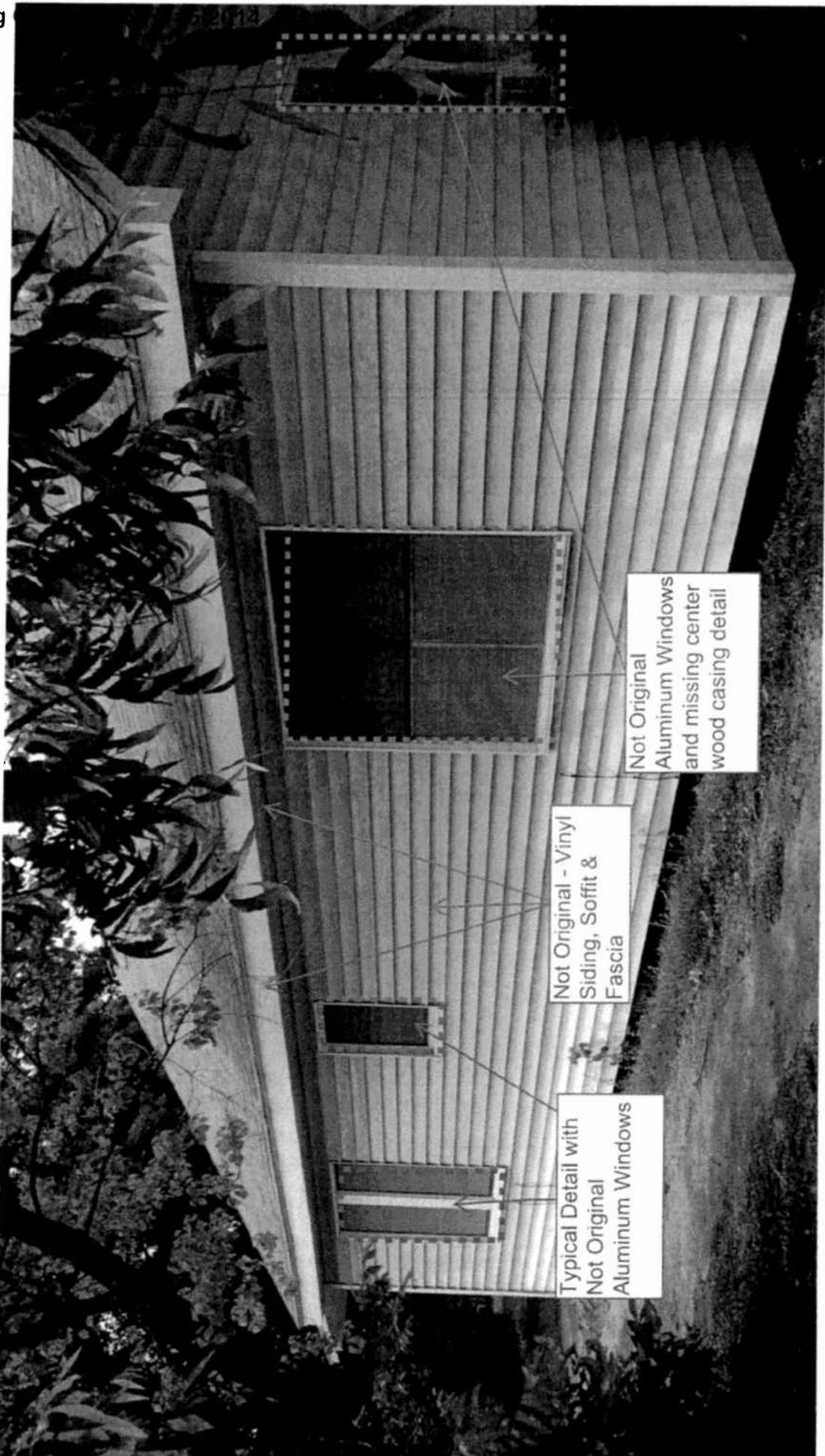
Exemptions and Jurisdictions					
Exemption Type	Districts	Jurisdictions	ARB Status	2012 Rate	2013 Rate
None	001	HOUSTON ISD	Certified: 08/09/2013	1.156700	1.186700
	040	HARRIS COUNTY	Certified: 08/09/2013	0.400210	0.414550
	041	HARRIS CO FLOOD CNTRL	Certified: 08/09/2013	0.028090	0.028270
	042	PORT OF HOUSTON AUTHY	Certified: 08/09/2013	0.019520	0.017160
	043	HARRIS CO HOSP DIST	Certified: 08/09/2013	0.182160	0.170000
	044	HARRIS CO EDUC DEPT	Certified: 08/09/2013	0.006617	0.006358
	048	HOU COMMUNITY COLLEGE	Certified: 08/09/2013	0.097173	0.097173
	061	CITY OF HOUSTON	Certified: 08/09/2013	0.638750	0.638750

Valuations			Valuations		
Value as of January 1, 2012			Value as of January 1, 2013		
	Market	Appraised		Market	Appraised
Land	31,250		Land	31,250	
Improvement	0		Improvement	0	
Total	31,250	31,250	Total	31,250	31,250

1815 Cortlandt - Existing Structure



1815 Cortlandt - Existing Structure

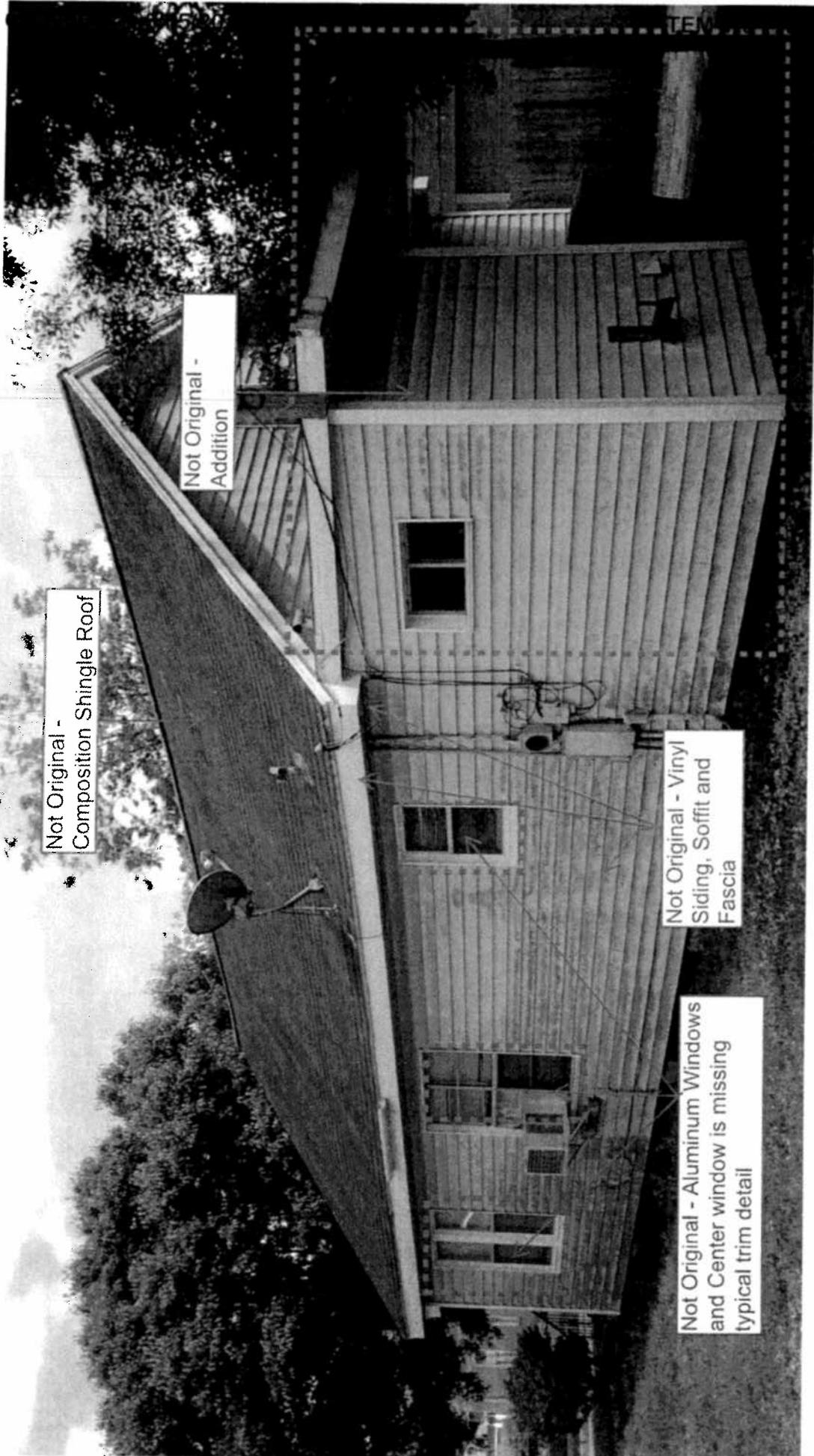


Not Original
Aluminum Windows
and missing center
wood casing detail

Not Original - Vinyl
Siding, Soffit &
Fascia

Typical Detail with
Not Original
Aluminum Windows

1815 Cortlandt - Existing Structure



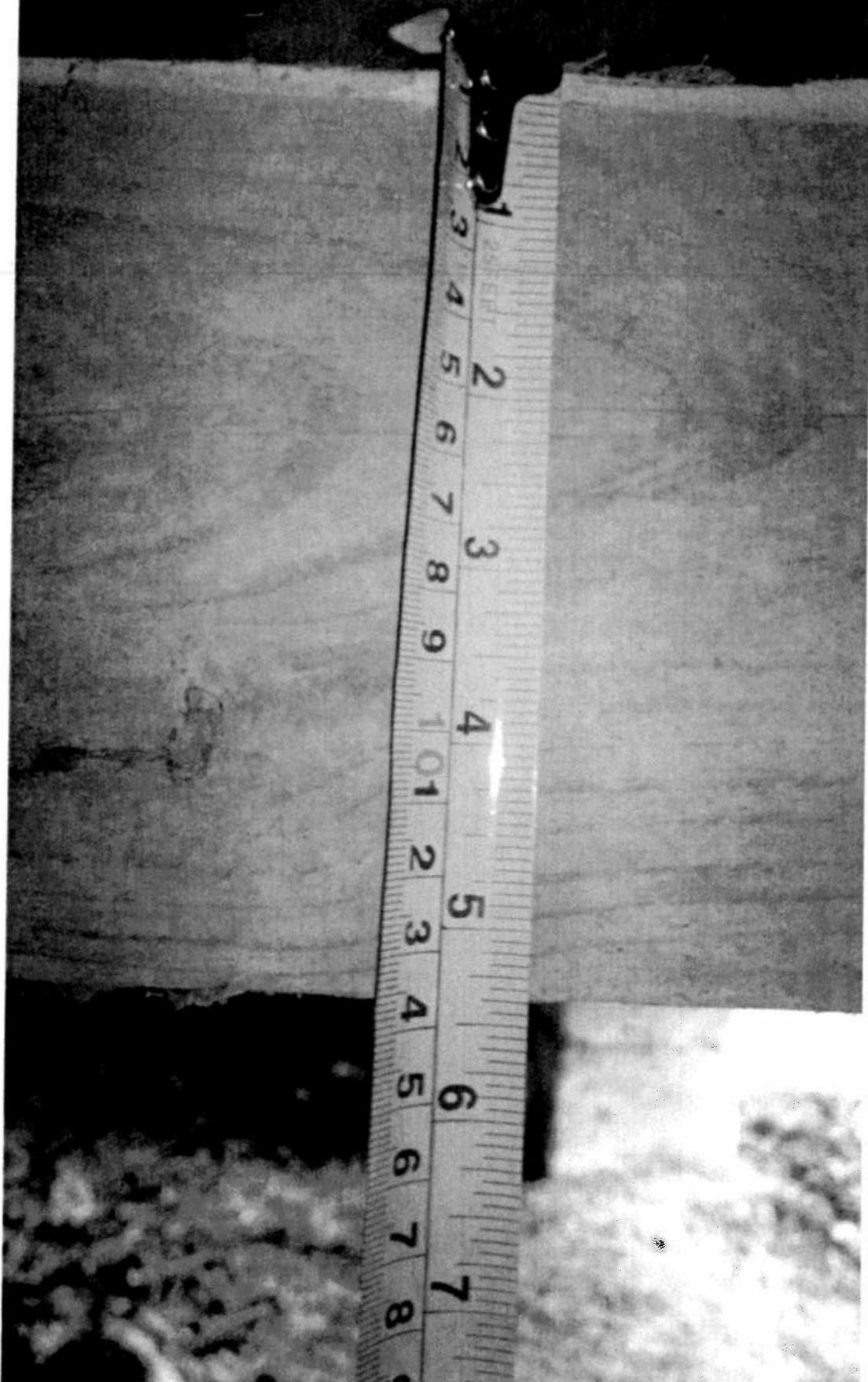
Not Original -
Composition Shingle Roof

Not Original -
Addition

Not Original - Vinyl
Siding, Soffit and
Fascia

Not Original - Aluminum Windows
and Center window is missing
typical trim detail

All Sill Beams have been replaced and are not Original



Harris-Finch, Delaney - PD

From: Kent Marsh <[REDACTED]>
Sent: Wednesday, May 07, 2014 10:46 AM
To: DuCroz, Diana - PD; Harris-Finch, Delaney - PD
Subject: Appeals to Planning Commission

Ms. DuCroz and Ms. Harris-Finch;

It is my understanding that the applicant for a Certificate of Appropriateness for 1815 Cortlandt and 1817 Courtlandt (same applicant) within the Houston Heights East Historical District has requested an appeal of their denial for a Certificate of Appropriateness from the Houston Archaeological and Historical Commission to be heard at the May 15, 2014 City of Houston Planning Commission meeting. As a managing member of the Houston Heights East Historical District ad-hoc Development Review Committee (the DRC), I ask that my comments below be forwarded to the Planning Commission Chair and the members of the Planning Commission for their consideration.

Dear Planning Commission Chair and Commission Members;

I respectfully request your consideration of the below comments regarding the appeal of the Houston Archaeological and Historical Commission (HAHC) denial of Certificates of Appropriateness for 1815 Cortlandt and 1817 Cortlandt located within the Houston Heights East Historic District. For your information, the ad-hoc Development Review Committee of the Houston Heights East Historic District (HHEHD) is composed of homeowners within the HHEHD who have lived within the HHEHD for a minimum of 5 years, are supportive of historic preservation within the HHEHD and are willing to provide monthly input to the HAHC regarding their review of the monthly applications received for the HHEHD for Certificates of Appropriateness. The DRC provides a line of communication between the existing homeowners within the HHEHD and the HAHC and Planning Dept Preservation staff. It should be noted that there are currently 8 voting members of the DRC and a majority have indicated their OBJECTION to the Certificate of Appropriateness for both 1815 Cortlandt and 1817 Cortlandt.

These objections are due in part for the following reasons:

1815 Cortlandt – Relocation of an existing contributing structure to outside the HHEHD

The HHEHD DRC OBJECTS to the granting of this Certificate of Appropriateness for the relocation of this structure for the following reasons:

1. The existing structure is considered a contributing structure to the HHEHD
 - a. The existing residential house was originally located within the Houston Heights and contains architectural elements that are compatible with the historic character of the Houston Heights contributing structures within the HHEHD
 - b. The existing residential house was constructed within the timeframe range of other contributing structures within the HHEHD
 - c. The existing residential house was constructed of materials that were typical of the timeframe of construction of contributing structures within the HHEHD

2. The existing structure contributes to the historic context of the immediate neighborhood
 - a. The 1800 block of Cortlandt is one of the blocks within the HHEHD that has the highest percentage of remaining contributing structures
 - b. Architectural elements of the existing contributing structure are compatible with those architectural elements of other contributing structures on the 1800 block of Cortlandt
 - c. Removal of the existing contributing structure would diminish the quality and quantity of the remaining historical context of the immediate neighborhood and the HHEHD

3. The proposed new location for the historic structure is not compatible with its historic context
 - a. Even a quick visual review of the proposed location for the relocation of the HHEHD contributing structure will indicate that the context of the new proposed location will not be similar or even close to the context of the existing contributing structure location in the HHEHD as there is a significant percentage of non-residential architectural elements around the proposed location while there is no non-residential architectural elements near the existing location within the HHEHD
 - b. While the applicant has indicated a desire to secure Landmark status for the relocated structure, the application has not been completed and there is no guarantee that moving the structure will not contribute to its loss of structural integrity to the point that a Landmark designation would be denied.

4. No proof has been provided by the applicant that the existing structure needs to be removed from the HHEHD
 - a. Typically, when someone goes through the significant expense of relocating a structure, there is a compelling reason for the relocation but in this case the applicant has not provided a compelling reason or any reason, for that matter, other than that's what the applicant desires
 - b. There has been no proposal submitted for a replacement structure at this location and the assumption is that this lot will remain vacant as a side yard for the adjacent property, losing the historical character of this existing contributing structure forever

5. The existing structure was constructed within the same timeframe as the construction range of other structures within the HHEHD
 - a. The applicant will contend that the existing contributing structure was constructed outside the exact timeframe of the HHEHD but the timeframe for construction of contributing structures is a range of time and not an exact cut-off date as there are several examples of other contributing structures within the HHEHD that were constructed within the allowable timeframe range not within an exact cut-off date
 - b. The construction typology of the existing contributing structure fits within the context of both the immediate neighborhood and the HHEHD

6. Removal and relocation of the existing structure would reduce the quality of the existing historic context of the neighborhood
 - a. Once the historic structure is removed there is no way to restore the historic character of the neighborhood and the HHEHD to the same level of historic significance and the HHEHD district will always be less historic than when originally created

7. None of the four criteria for relocation of a contributing historic structure outside of a historic district have been met

- a. Originally, the applicant contended that one of the criteria was met but when it was determined that the criteria had not been met, the applicant switched to another criteria but still failed to satisfy the newly chosen criteria
- b. At this time, the applicant has failed to meet any of the 4 required criteria for approval of the relocation of an existing contributing structure outside the HHEHD

As a result of the overwhelming evidence presented above, I respectfully request that you deny the appeal of the applicant and support the denial of the Certificate of Appropriateness supporting the action of the HAHC.

1817 Cortlandt – Relocation and Addition

The HHEHD DRC OBJECTS to the granting of this Certificate of Appropriateness for the relocation of this structure and a proposed addition after relocation for the following reasons:

1. The proposed addition is visually overpowering the existing historic structure both vertically and to the side resulting in the diminished prevalence of the existing historic structure
 - a. To preserve the historic character of an existing historic district, it is necessary to ensure that the existing historical structures remain as the primary visual element within the district but the proposed addition to the existing contributing structure will be taller, wider, and larger than the existing historical structure resulting in a significant reduction of the visual priority of the existing contributing structure and, therefore, reducing the level of historical context of existing contributing structures within the HHEHD

2. The proposed removal of a significant portion of the floor structure of the existing structure, as proposed by the applicant, is not necessary and such removal would constitute a significant reduction of the historic character of the existing structure similar to the removal of interior original lapped siding that also contributes to the structural integrity of the historic structure
 - a. The applicant originally proposed to remove a significant portion of the floor structural support of the existing contributing structure without providing any positive reason and replace the existing wooden floor beams with an at-grade concrete slab in disregard to the historical context of the structural portion of the existing structure
 - b. Once existing structure is removed, it cannot be replaced and the resulting loss is both to the structure and the entire HHEHD
 - c. The applicant indicated a subsequent desire to not remove the floor structural elements but to instead remove some of the ceiling structural elements which constitutes the same removal of structural elements in the existing contributing structure

3. The proposed window modifications for the existing structure are not necessary and would reduce the historic character of the existing structure
 - a. The applicant proposed to remove and/or relocate existing windows in the existing contributing structure but failed to provide any reasonable explanation for the proposed change
 - b. The pattern and rhythm of the existing window locations on the exterior façade establish a context that is identifiable as historical context

As a result of the overwhelming evidence presented above, I respectfully request that you deny the appeal of the applicant and support the denial of the Certificate of Appropriateness supporting the action of the HAHC.

J. Kent Marsh, AICP
1538 Arlington St., HHEHD



8955 Katy Freeway, Suite 215
Houston, Texas 77024
tel 713.647.9880, ext. 301 | fax 713.647.6448
cell 832.444.4132
www.marshdarcypartners.com

Minutes of the Houston Planning Commission

(A CD/DVD of the full proceedings is on file in the Planning and Development Department)

May 15, 2014

Meeting to be held in

Council Chambers, Public Level, City Hall Annex

2:30 p.m.

Call to order:

Chair, Mark Kilkenny called the meeting to order at 2:37 p.m. with a quorum present.

Mark A. Kilkenny, Chair

M. Sonny Garza

Susan Alleman

Keiji Asakura

Fernando Brave

Kenneth Bohan

Absent

Antoine Bryant

Lisa Clark

Truman C. Edminster III

Arrived at 3:14 p.m. during item #113

James R. Jard

Paul R. Nelson

Linda Porras-Pirtle

Left at 5:15 p.m. item Vb

Algenita Davis

Mike Sikes

Martha Stein

Eileen Subinsky

Blake Tartt III

Shaukat Zakaria

Mark Mooney for

Absent

James Noack

Clay Forister for

The Honorable Grady Prestage

Raymond Anderson for

The Honorable Ed Emmett

EXOFFICIO MEMBERS

Carol A. Lewis

Daniel W. Krueger, P.E.

DIRECTOR'S REPORT

None

APPROVAL OF THE May 1, 2014 PLANNING COMMISSION MEETING MINUTES

Commission action: Approved the May 1, 2014 Planning Commission meeting minutes.

Motion: **Subinsky** Second: **Tartt** Vote: **Unanimous** Abstaining: **None**

I. PLATTING ACTIVITY (Consent items A and B, 1- 139)

Item **55** was changed from approve to defer per applicant's request. Items 116 and 117 were taken with item 162. Items removed for separate consideration: **17, 22, 45, 47, 53, 60, 67, 74, 75, 86, 87, 90, 91 and 92.**

Staff recommendation: Approve staff's recommendations for items **1 – 139** subject to the CPC 101 form conditions.

Commission action: Approved staff's recommendations for items **1 – 139** subject to the CPC 101 form conditions.

Motion: **Garza** Second: **Zakaria** Vote: **Unanimous** Abstaining: **None**

Commissioners Edminster, Alleman and Sikes abstained and left the room.

Staff recommendation: Approve staff's recommendation to approve items **17, 22, 45, 47, 53, 60, 67, 74, 75, 86, 87, 90, 91 and 92** subject to the CPC 101 form conditions.

Commission action: Approved staff's recommendation to approve items **17, 22, 45, 47, 53, 60, 67, 74, 75, 86, 87, 90, 91 and 92** subject to the CPC 101 form conditions.

Motion: **Clark** Second: **Subinsky** Vote: **Unanimous** Abstaining: **None**

Commissioners Edminster, Alleman and Sikes returned.

C PUBLIC HEARINGS

140 Bradford Place partial replat no 2 C3N Defer

Staff recommendation: Defer the plat for two weeks to allow time for the applicant to provide revised information and continue the public hearing at that time.

Commission action: Deferred the plat for two weeks to allow time for the applicant to provide revised information and continue the public hearing at that time.

Motion: **Bryant** Second: **Nelson** Vote: **Unanimous** Abstaining: **None**

Speaker for item 140: Kathy Magness –undecided.

141 Commons Waterway Sec 4 partial replat no 1 C3N Approve

Staff recommendation: Defer the plat for two weeks to allow time for the applicant to provide revised information and continue the public hearing at that time.

Commission action: Deferred the plat for two weeks to allow time for the applicant to provided revised information and continue the public hearing at that time.

Motion: **Clark** Second: **Bryant** Vote: **Unanimous** Abstaining: **None**

142 Contemporary Main Plaza partial replat no 1 C3N Disapprove

Staff recommendation: Approve the plat subject to the CPC 101 form conditions.

Commission action: Denied the plat.

Motion: **Davis** Second: **Bryant** Vote: **Carries** Abstaining: **None**

Opposed: **Nelson**

Speakers: Donald Perkins representing Council Member Larry Green- opposed.

143 David Crocket Second partial replat no 4 C3N Defer
Staff recommendation: Defer the plat for further study and review.
Commission action: Deferred the plat for further study and review.
Motion: **Jard** Second: **Bryant** Vote: **Carries** Abstaining: **Tartt**

144 First Amended Replat of Block C3N Approve
1 Woodshire Sec 1 partial replat no 1
Staff recommendation: Approve the plat subject to the CPC 101 form conditions.
Commission action: Approved the plat subject to the CPC 101 form conditions.
Motion: **Clark** Second: **Subinsky** Vote: **Unanimous** Abstaining: **None**
Speakers for item 144: Steve Honore' –undecided; Donald Perkins representing Council Member
Larry Green –stated stipulations agreed to by the applicant.

145 Mandell Courts replat no 1 C3N Approve
Staff recommendation: Grant the requested variance(s) and approve the plat subject to the conditions listed.
Commission action: Granted the requested variance(s) and approved the plat subject to the conditions listed.
Motion: **Jard** Second: **Bryant** Vote: **Unanimous** Abstaining: **None**

146 Melody Oaks partial replat no 7 C3N Approve
Staff recommendation: Approve the plat subject to the CPC 101 form conditions.
Commission action: Approved the plat subject to the CPC 101 form conditions.
Motion: **Alleman** Second: **Sikes** Vote: **Unanimous** Abstaining: **None**
Speaker for item 120: Richard Smith, Public Works & Engineering Department

147 Melody Oaks partial replat no 8 C3N Approve
Staff recommendation: Approve the plat subject to the CPC 101 form conditions.
Commission action: Approved the plat subject to the CPC 101 form conditions.
Motion: **Clark** Second: **Bryant** Vote: **Unanimous** Abstaining: **None**

148 Park Court partial replat no 1 C3N Withdraw

Commissioner Jard abstained and left the room.

149 Rockhurst replat no 1 C3N Approve
Staff recommendation: Approve the plat for two weeks at the applicant's request.
Commission action: Approved the plat subject to the CPC 101 form conditions.
Motion: **Zakaria** Second: **Brave** Vote: **Carries** Abstaining: **Jard**
Opposed: **Garza**
Speaker for item 149: Mary Lou Henry –supportive, Daryl Rebrovich –undecided.

150 Simms Woods replat no 1 and extension C3N Approve
Staff recommendation: Defer the plat subject to the CPC 101 form conditions.
Commission action: Deferred the plat subject to the CPC 101 form conditions.
Motion: **Edminster** Second: **Alleman** Vote: **Unanimous** Abstaining: **None**
Speaker for item 123: Jay Matron

151 Tanglewood Sec 11 partial replat no 2 C3N Defer
Staff recommendation: Defer the plat for two weeks to address boundary verification questions.
Commission action: Deferred the plat for two weeks to address boundary verification questions.
Motion: **Bryant** Second: **Clark** Vote: **Unanimous** Abstaining: **None**

152 Walden on Lake Houston Olympic C3N Withdraw
Village Sec 2 partial replat no 1 C3N

153 Walden on Lake Houston Olympic C3N Withdraw
Village Sec 2 partial replat no 2

D VARIANCES

Agenda items 154, 155, 156, 157, 165 and 167 were taken together at this time with staff requesting a two week deferral on all items for the reasons stated.

154 Bauer Road Tract GP GP Defer
155 Bauer Road Tract Sec 1 C3P Defer
156 Bauer Road Tract Sec 2 C3P Defer
157 Bauer Road Tract Sec 3 C3P Defer
165 North Durham Estates C2R Defer
167 Reserve at Clear Lake City GP GP Defer

Staff recommendation: Defer the plats for two weeks for the reasons stated.

Commission action: Deferred the plats for two weeks for the reasons stated.

Motion: **Porras-Pirtle** Second: **Stein** Vote: **Unanimous** Abstaining: **None**

158 Cypress Station Fuel Center C2R Approve

Staff recommendation: Grant the requested variance and approve the plat subject to the CPC 101 form conditions.

Commission action: Granted the requested variance and approved the plat subject to the CPC 101 form conditions.

Motion: **Clark** Second: **Bryant** Vote: **Unanimous** Abstaining: **None**

159 Dowling Park C2R Approve

Staff recommendation: Grant the requested variance and approve the plat subject to the CPC 101 form conditions.

Commission action: Granted the requested variance and approved the plat subject to the CPC 101 form conditions.

Motion: **Garza** Second: **Alleman** Vote: **Carries** Abstaining: **None**

Opposed: **Davis, Asakura, Bryant, and Brave**

160 Hirsh Road Business Park C2 Approve

Staff recommendation: Approve the plat subject to the CPC 101 form conditions.

Commission action: Approved the plat subject to the CPC 101 form conditions.

Motion: **Subinsky** Second: **Garza** Vote: **Unanimous** Abstaining: **None**

161 Lockwood Auto Storage **C2** **Approve**
 Staff recommendation: Grant the requested variance and approve the plat subject to the CPC 101 form conditions.
 Commission action: Granted the requested variance and approved the plat subject to the CPC 101 form conditions.
 Motion: **Bryant** Second: **Clark** Vote: **Unanimous** Abstaining: **None**

Items 116, 117, and 162 were taken together at this time.

116 Harris County MUD no 504 Detention Pond No 1 **C2R** **Approve**

117 Harris County MUD no 504 Detention Pond No 2 **C2R** **Approve**

162 Madera Run Parkway Street Dedication Sec 1 **C3R** **Approve**
 Staff recommendation: Grant the requested variance and approve the plats subject to the CPC 101 form conditions.
 Commission action: Granted the requested variance and approved the plats subject to the CPC 101 form conditions.
 Motion: **Clark** Second: **Bryant** Vote: **Unanimous** Abstaining: **None**

163 Montrose Addition partial replat no 6 **C2R** **Withdraw**

164 Morgan Fun is Free Reserve **C2R** **Approve**
 Staff recommendation: Grant the requested variance and approve the plat subject to the CPC 101 form conditions.
 Commission action: Granted the requested variance and approved the plat subject to the CPC 101 form conditions.
 Motion: **Tartt** Second: **Bryant** Vote: **Unanimous** Abstaining: **None**
 Speakers for item 164: Laura Brickey –supportive.

166 Rankin Hardy Tract **C2** **Approve**
 Staff recommendation: Grant the requested variance and approve the plat subject to the CPC 101 form conditions.
 Commission action: Granted the requested variance and approved the plat subject to the CPC 101 form conditions.
 Motion: **Asakura** Second: **Garza** Vote: **Unanimous** Abstaining: **None**

168 Somerset Green Sec 3 **C3R** **Approve**
 Staff recommendation: Grant the requested variance and approve the plat subject to the CPC 101 form conditions.
 Commission action: Granted the requested variance and approved the plat subject to the CPC 101 form conditions.
 Motion: **Edminster** Second: **Porras-Pirtle** Vote: **Unanimous** Abstaining: **None**

Items 169 and 170 were taken together.

169	Springwoods Village Partial GP	GP	Approve
170	Springwoods Village District Sec 1	C2	Approve

Staff recommendation: Grant the requested variance and approve the general plan and the plat subject to the CPC 101 form conditions.

Commission action: Granted the requested variance and approved the general plan and the plat subject to the CPC 101 form conditions.

Motion: **Bryant** Second: **Tartt** Vote: **Unanimous** Abstaining: **None**

171	Viewpoint Square replat no 1	C2R	Approve
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Staff recommendation: Approve the plat subject to the CPC 101 form conditions.

Commission action: Approved the plat subject to the CPC 101 form conditions.

Motion: **Garza** Second: **Clark** Vote: **Unanimous** Abstaining: **None**

E SPECIAL EXCEPTIONS
NONE

172	Villages of Cypress Lakes Sec 32	C3P	Approve
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Staff recommendation: Grant the requested special exception and approve the plat subject to the CPC 101 form conditions.

Commission action: Granted the requested special exception and approved the plat subject to the CPC 101 form conditions.

Motion: **Clark** Second: **Bryant** Vote: **Unanimous** Abstaining: **None**

F RECONSIDERATION OF REQUIREMENTS
None

Items G (Extensions of Approval), H (Name Changes), and I (Certificates of Compliance) were taken together at this time.

G EXTENSIONS OF APPROVAL

173	Christ the King Presbyterian Church replat no 1 and extension	EOA	Approve
174	Domain Northgate	EOA	Approve

EOA Approve

H NAME CHANGES

175	Bissonet Street and Westmoor Drive STD (prev. Bissonet Boulevard and Westmoor Drive STD)	NC	Approve
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I CERTIFICATES OF COMPLIANCE

176	23757 Wisp Court	COC	Approve
177	18857 Honeysuckle Lane	COC	Approve
178	19652 New Forest	COC	Approve

Staff recommendation: Approve staff's recommendation for items 173-178.

Commission action: Approved staff's recommendation for items 173-178.

Motion: **Davis** Second: **Brave** Vote: **Unanimous** Abstaining: **None**

**J. ADMINISTRATIVE
NONE**

K DEVELOPMENT PLATS WITH VARIANCE REQUESTS

179 3329 Cloverdale Street DPV Defer
Staff recommendation: Defer the plat for two weeks.
Commission action: Deferred the plat for two weeks.
Motion: **Garza** Second: **Clark** Vote: **Unanimous** Abstaining: **None**

II. ESTABLISH A PUBLIC HEARING DATE OF JUNE 12, 2014

- a. Broadmoor Addition partial replat no 1**
- b. Craig Woods partial replat no 10**
- c. Hawthorne Place Addition Sec 8 partial replat no 1**
- d. Hollywood Gardens partial replat no 3**
- e. Langwood partial replat no 1**
- f. Melody Oaks partial replat no 9 and extension**
- g. Riverway Estates Sec 1 partial replat no 3**
- h. West Court partial replat no 2**
- i. Westheimer Gardens partial replat no 2**

Staff recommendation: Establish a public hearing date of June 12, 2014 for items **II a-i**.
Commission action: Established a public hearing date of June 12, 2014 for items **II a-i**.
Motion: **Bryant** Second: **Subinsky** Vote: **Unanimous** Abstaining: **None**

Item IV was taken out of order and acted on as this time.

IV. CONSIDERATION OF A HOTEL MOTEL VARIANCE FOR A HILTON HOME 2 HAIK LOCATION AT 1106 SHERWOOD FOREST DRIVE:

Staff recommendation: Defer the requested Hotel Motel Variance for a Hilton Home 2 Haik Location at 1106 Sherwood Forest Drive.

Commission action: Deferred the requested Hotel Motel Variance for a Hilton Home 2 Haik Location at 1106 Sherwood Forest Drive.

Motion: **Bryant** Second: **Clark** Vote: **unanimous** Abstaining: **None**

III. PUBLIC HEARING FOR A HAZMAT PERMIT APPLICATION FOR S&S PLATTING COMPANY, 6505 DIXIE DRIVE:

Commission action: Deferred the requested Hazmat Permit Application for S&S Platting Company, 6506 Dixie Drive.

Motion: **Brave** Second: **Davis** Vote: **unanimous** Abstaining: **None**

Speakers for item III: Arthur Malone –supportive. Representative for Council Member Robert Gallegos, Gladys Thomas –opposed.

V. CONSIDERATION FOR AN APPEAL ON THE DECISION OF THE HOUSTON HISTORICAL ARCHAEOLOGICAL AND HISTORICAL COMMISSION ON APRIL 24, 2014 FOR A CERTIFICATE OF APPROPRIATENESS FOR:

- a. 1815 Cortlandt Street –Houston Heights Historic District East**

Staff recommendation: None

Commission action: Upheld the appeal on the decision of the Houston Historical and Archaeological and Historical Commission for the Certificate of Appropriateness.

Motion: **Garza** Second: **Brave** Vote: **Carries** Opposing: **Davis,**

Edminster, Subinsky, Stein and Anderson

Speakers for item IV: Tim Kirwin –supportive.

b. 1817 Cortlandt Street –Houston Heights Historic District East

Staff recommendation: None

Commission action: Overturned the appeal on the decision of the Houston Historical and Archaeological and Historical Commission for the Certificate of Appropriateness.

Motion: **Jard** Second: **Zakaria** Vote: **Carries** Opposing: **Asakura, Garza, Clark, Brave and Forister.**

Speakers for item IV: Tim Kirwin –supportive.

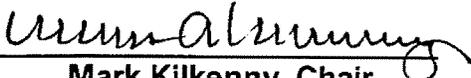
VI. PUBLIC COMMENT

None

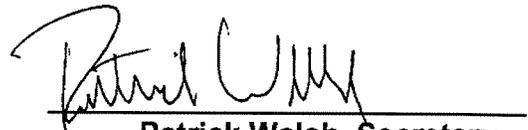
VII. ADJOURNMENT

There being no further business brought before the Commission Chair, Mark Kilkenny adjourned the meeting at 5:34 p.m.

Motion: **Garza** Second: **Tartt** Vote: **Unanimous** Abstaining: **None**



Mark Kilkenny, Chair



Patrick Walsh, Secretary

Applicant presentation materials

(c) Will be relocated to an area that is compatible with the historical and architectural character of the landmark, contributing structure or potentially contributing structure, and Evidence supports that the structure is compatible with the Denver historic residential neighborhood. However, the proposed structure does not possess a historic or compatible residential character.

(d) If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

Evidence does not support that relocation of the structure will not diminish the historic integrity Historic District East. The district is significant as a collective whole, the historic character defined by the contributing structures. Contributing structures should not be removed to make way for new construction. A reduction in number of contributing structures dilutes and compromises the historic value of the district.

(2) The relocation is necessary to protect the landmark, contributing structure or potentially contributing structure from demolition resulting from a public improvement project.

(3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-347(c)

(1) That the property is incapable of earning a reasonable return, without regard to whether the return is the most profitable return, including without limitation, whether the costs of maintenance or improvements of the property exceed its fair market value.

(2) That the property cannot be adapted for any other use, whether by the current owner, by a purchaser or by a lessee, that would result in a reasonable return.

removed from the district.

THE INTEGRITY OF THE DISTRICT. LOOK AT

structures can be moved without significant damage

(c) Will be relocated to an area that is compatible with the historical and architectural character of the landmark, contributing structure or potentially contributing structure; and Evidence supports that the structure is compatible with the Denver Harbor residential neighborhood; however, the proposed containing block does not possess a historic or compatible residential character.

(d) If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

Evidence does not support that relocation of the structure will not diminish the Houston Heights Historic District East. The district is significant as a collective whole, the historic character defined by the contributing structures. Contributing structures should not be removed to make way for new construction. A reduction in number of contributing structures states and compromises the historic value of the district.

(2) The relocation is necessary to protect the landmark, contributing structure or potentially contributing structure from demolition resulting from a public improvement project.

(3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-247(c):

(1) That the property is incapable of earning a reasonable return, without regard to whether the return is the most profitable return, including without limitation, whether the costs of maintenance or improvement of the property exceed its fair market value;

(2) That the property cannot be adapted for any other use, whether by the current owner, by a purchaser or by a lessee, that would result in a reasonable return.

Timothy Kirwin

From: DuCroz, Diana - PD <Diana.DuCroz@houstontx.gov>
Sent: Friday, May 02, 2014 5:01 PM
To: Timothy Kirwin
Cc: Harris-Finch, Delaney - PD; Butler, Geoff - PD
Subject: RE: Appeal questions.
Attachments: Iir_1817_Cortlandt_Addition_ACTION.pdf; Iiq_1815_Cortlandt_Relocation_ACTION.pdf

TimeMattersID: MOB8CA369EF6E590
TM Contact: Gabriel Home Builders, Inc.
TM Contact No: 5237
TM Matter No: 5237-1
TM Matter Reference: 1815 and 1817 Cortlandt

Hi Tim

Here are answers to your questions:

- 1) You have until Monday to file the written appeal, as the 10th day falls over the weekend.
- 2) Attached are the Action Reports for the Certificates of Appropriateness. HAHC agreed with staff's findings for both.
- 3) We should be able to get you on the May 15 agenda. There is a required 10-day notice of hearing that Planning must send to the appellant, but if it goes out Monday, that will meet the requirement.
- 4) You do not need to place a sign on the property for the appeal hearing.

If you have further questions, please let me know.

Diana

Diana DuCroz, City of Houston Planning & Development Department
(713) 837-7924

-----Original Message-----

From: Timothy Kirwin [mailto:Tim@jgradyrandlepc.com]
Sent: Thursday, May 01, 2014 4:16 PM
To: DuCroz, Diana - PD
Subject: Appeal questions.

Ms. DuCroz. I will be filing an appeal to the planning commission regarding 1815 and 1817 Courtland denials of certificate of appropriateness' of the HAHC.

I want to make sure I comply with the city's appeal procedures.

1. The deadline to appeal is tomorrow, but I have not received a copy of the findings of the HAHC. I placed an open records request but have not heard back. It will be difficult to state the grounds for the appeal without the HAHC reasons for such denials. Can you assist with providing a copy of the findings?

2. We would like to make the May 15 planning meeting date. Do we need to place signs on the property like we did for the HAHC meeting? If the appeal is submitted tomorrow, do you see any reason we would not be heard at the next regular planning commission meeting?

Thank you. If you need more information, please give me at call at 281-657-2000.

Tim Kirwin.
Attorney for owner
Randle Law Office
820 Gessner, Suite 1570
Houston, TX 77024

feet from the public right-of-way. The lettering on the sign shall be legible from the public right-of-way. The applicant shall use reasonable efforts to maintain each required sign on the site until the close of the meeting at which the HAHC acts on the application.

- (c) Each sign shall provide the following information:
- (1) The application number and the type of certificate of appropriateness being requested;
 - (2) The date, time, and place of the meeting at which the HAHC will first consider the application;
 - (3) A telephone number of the applicant to call for additional information; and
 - (4) A department telephone number to call for additional information.

(Ord No 09-191, § 5, 3-4-09; Ord No 2010-814 §§ 23, 24, 10-13-2010)

Sec. 33-239. Procedures.

An application for a certificate of appropriateness shall be considered by the HAHC if the complete application is submitted by the next scheduled submittal deadline as approved by the HAHC. The HAHC may continue its consideration of an application for a certificate of appropriateness to its next regular meeting upon finding that specific information is needed by the HAHC to enable it to reach its decision or upon agreement with the applicant for a continuance. If the HAHC does not act upon an application for a certificate of appropriateness within the next two meetings of the HAHC after the first meeting in which the application is considered for a total of three meetings in which the application is considered, the application shall be deemed approved, unless the applicant consents in writing to an extension to a specified date.

(Ord No 95-228 § 2, 3-1-95; Ord No. 09-191 § 5, 3-4-09)

Sec. 33-240. Criteria for issuance of certificates of appropriateness—General.

- (a) The HAHC shall be the body responsible for approving certificates of appropriateness unless otherwise provided in this article. The HAHC shall review and approve or disapprove a certificate of appropriateness pursuant to:
- (1) The applicable specific criteria in this division; and
 - (2) Design guidelines approved pursuant to section 33-268 of this Code or division 6 of this article for the Old Sixth Ward Protected Historic District, to the extent applicable.
 - (3) In the event of a conflict between the criteria in this division and the design guidelines, the design guidelines shall control.
- (b) The applicant for a certificate of appropriateness shall have the burden of demonstrating that the application satisfies the criteria applicable to the issuance of the certificate of appropriateness. To approve or disapprove an application for a certificate of appropriateness, the HAHC shall consider and make findings with respect to the relationship between the proposed activity and the applicable criteria. The HAHC shall take into consideration the current needs of the applicant and shall be sensitive to the property owner's financial condition in determining whether to issue a certificate of appropriateness.

(Ord No 95-228 § 2, 3-1-95; Ord No. 07-855 § 5, 3-1-07; Ord No 2010-814 § 25, 10-13-2010)

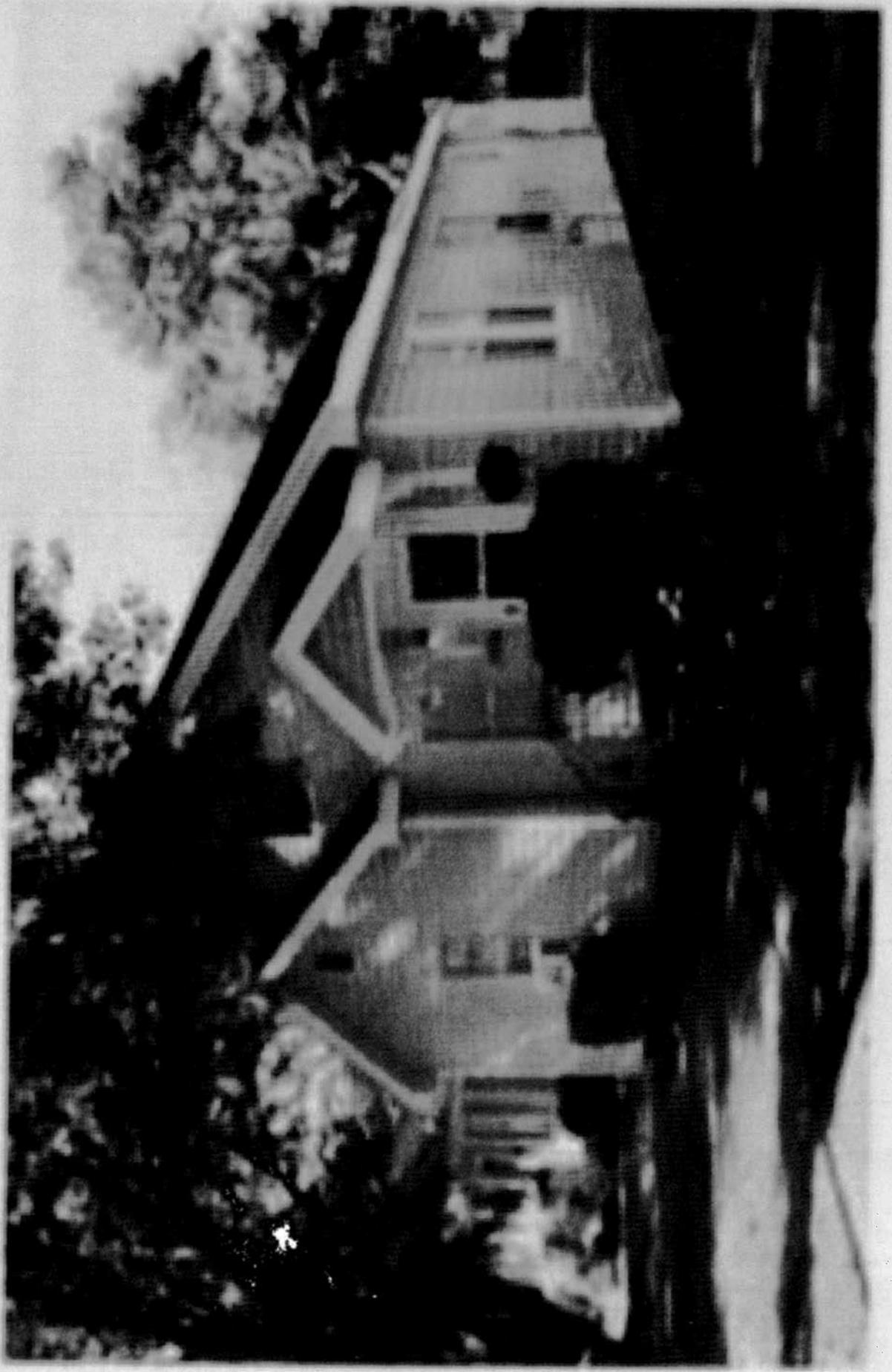
Sec. 33-241. Same—Exterior alteration, rehabilitation, restoration and addition.

- (a) The HAHC shall issue a certificate of appropriateness for the alteration, rehabilitation, restoration or addition of an exterior feature of (i) any landmark, (ii) protected landmark, or (iii) any building, structure or object that is part of an archaeological site, upon finding that the application satisfies the following criteria, as applicable:

Houston Department of Planning and Development

Staff presentation materials

1815 Cortlandt Street
Relocation - Contributing Residence



1815 Cortlandt Street
Relocation - Contributing Residence

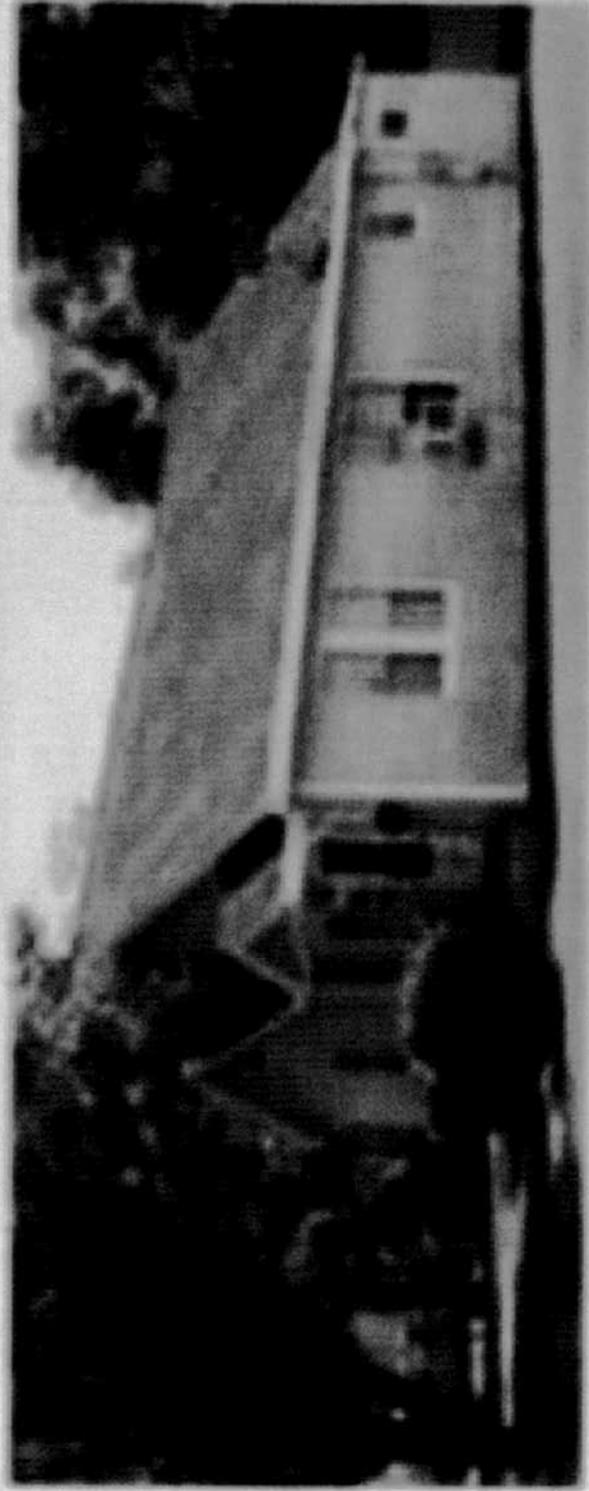


1815 Cortlandt Street

Relocation – Contributing Residence

Historic Preservation Principles

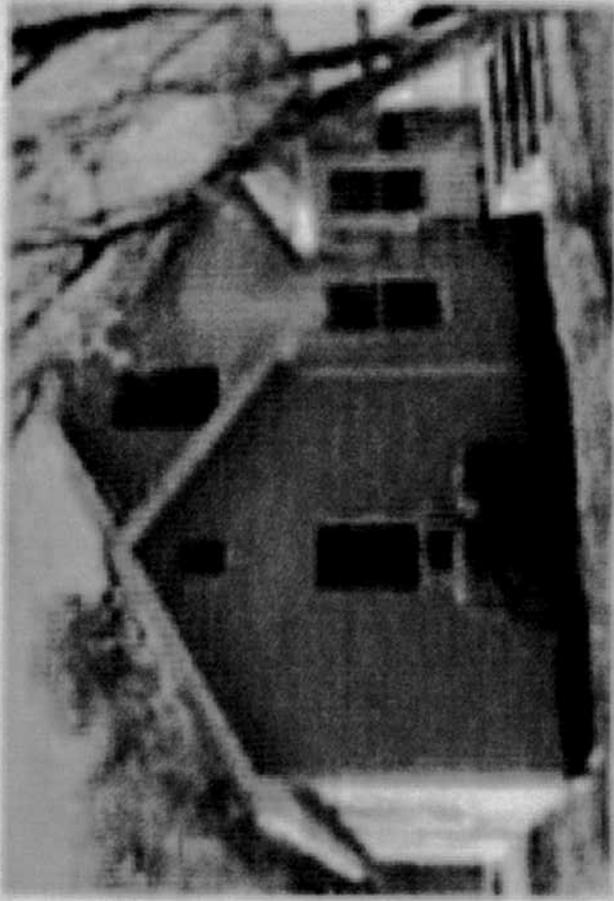
- The Historic District is the resource
- Contributing structures define the Historic District
- Contributing buildings should not be removed



1815 Cortlandt Street
Relocation - Contributing Residence

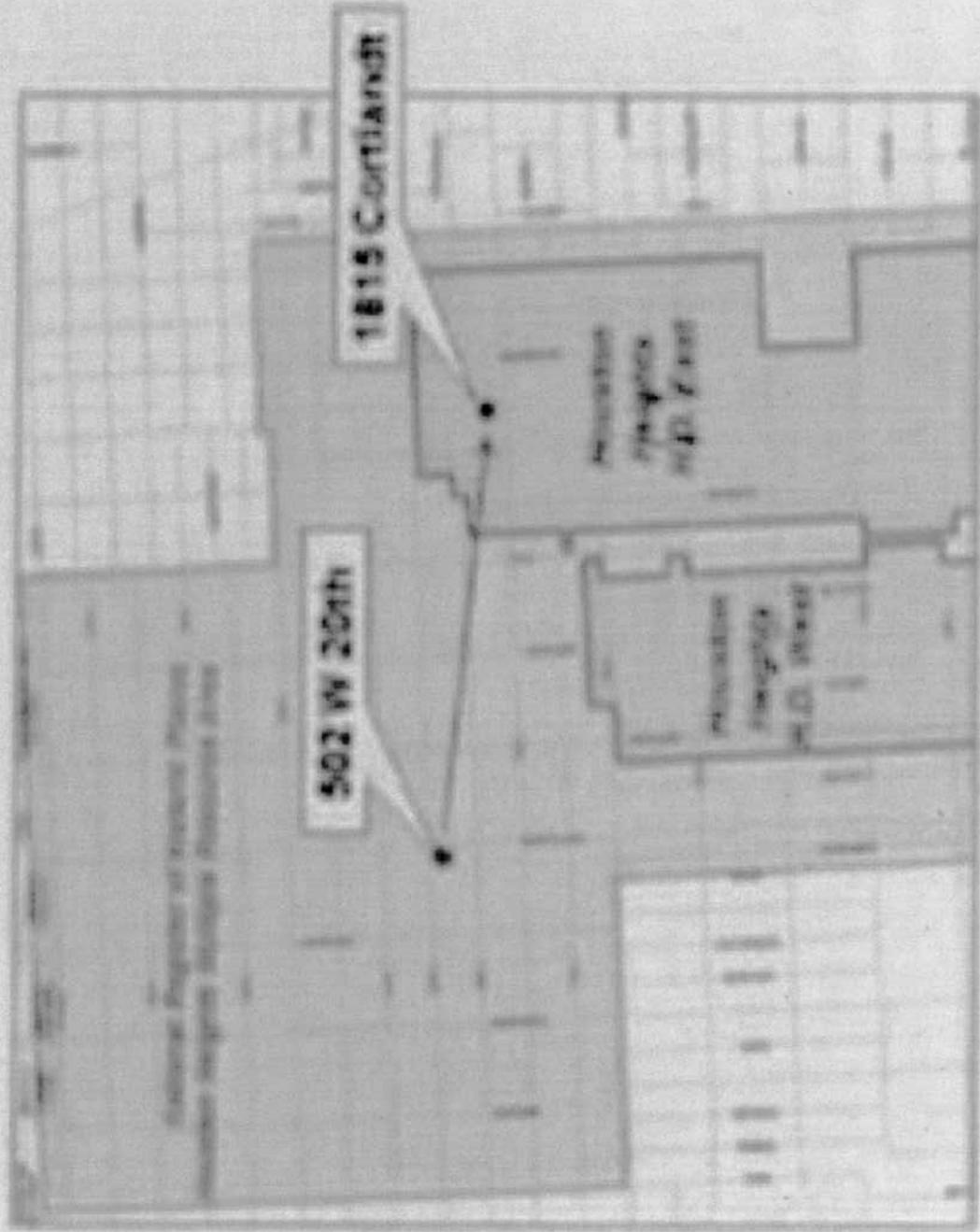


1978



Present

1815 Cortlandt Street Relocation - Contributing Residence

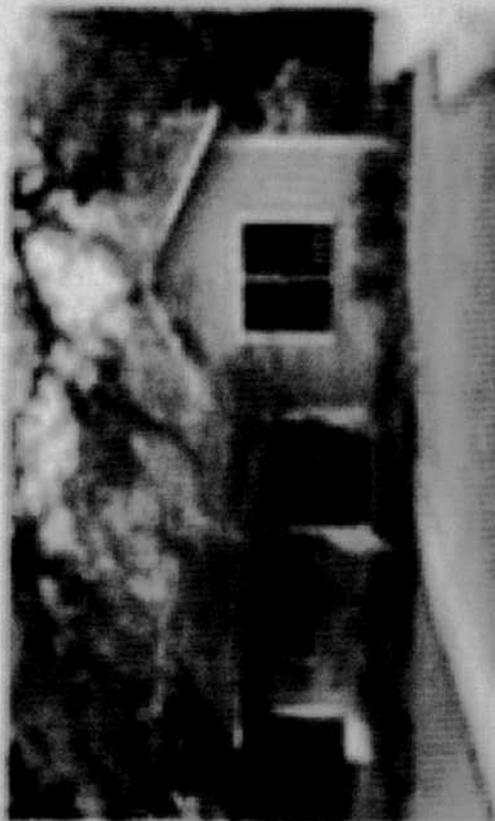


1615 Cortlandt Street

Relocation - Contributing Residence



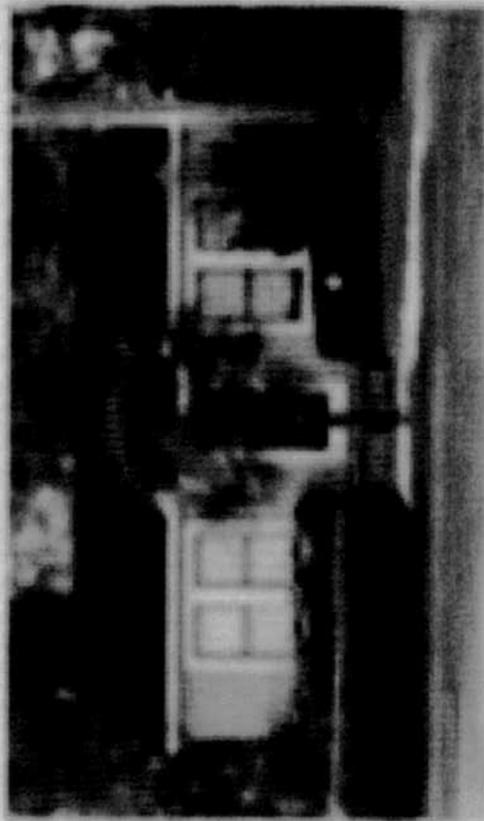
1615 Cortlandt - Contributing, 1941



1136 Heights - Contributing, c.1940



415 E 16th - Contributing, c.1940



304 E 16th - Contributing, c.1940

1815 Cortlandt Street

Relocation - Contributing Residence



1815 Cortlandt - Contributing



1813 Cortlandt - Contributing



1817 Cortlandt - Contributing



1819 Cortlandt - Contributing

1815 Cortlandt Street

Relocation – Contributing Residence

Sec. 33-243(a)(4)(1)

Historic significance of the structure or its importance to the integrity of the historic district.



1815 Cortlandt Street

Relocation – Contributing Residence

Sec. 33-243(a)(4)(2)

Plans for reuse of the property if the relocation is carried out and what effect such plans have on the architectural, cultural, and historical character of the area.



1815, 1815 & 1817 Cortlandt

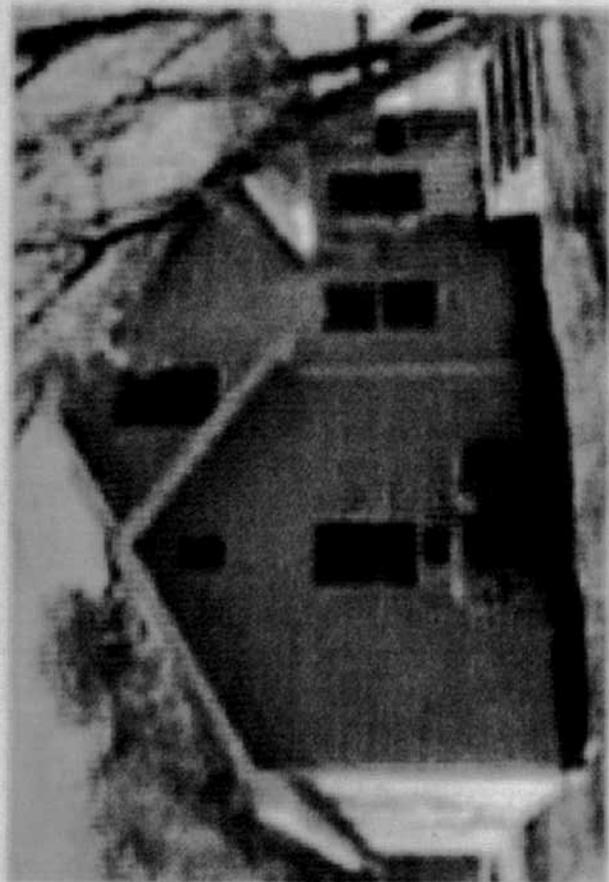
1815 Cortlandt Street
Relocation – Contributing Residence

Sec. 33-243(a)(4)(3)

Reasonable measures can be taken to save the structure from further deterioration, collapse, arson, vandalism or neglect.



1978



Present

1815 Cortlandt Street
Relocation – Contributing Residence

Sec. 33-243(a)(1)(a)

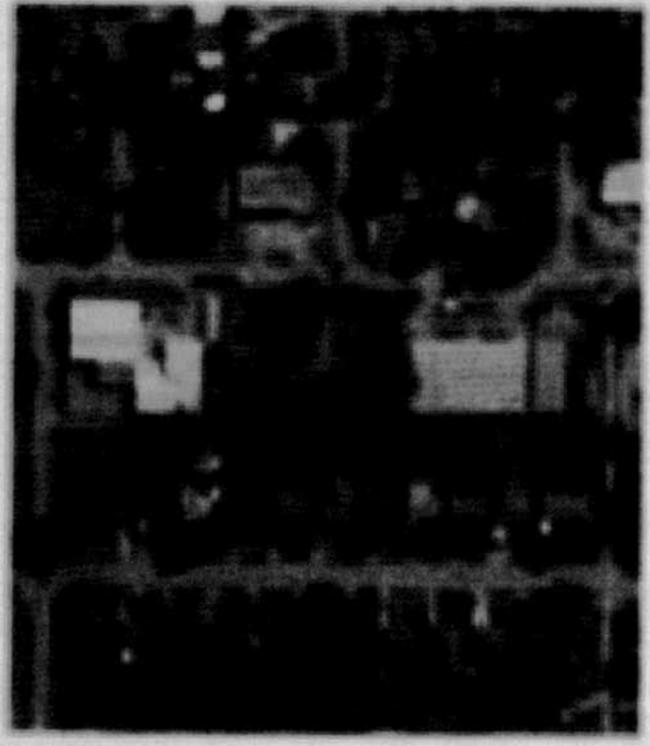
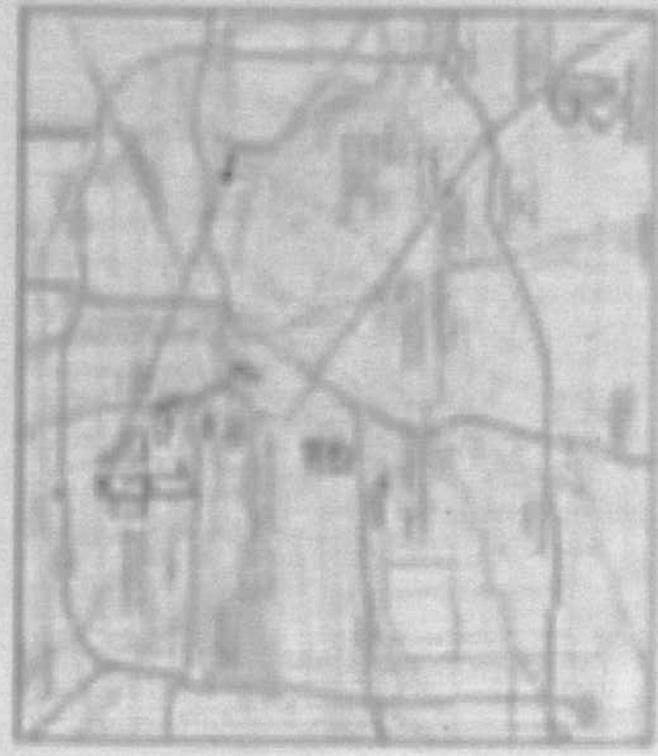
Architectural or historical value independent of its physical location that will not be diminished with relocation



1815 Cortlandt Street
Relocation – Contributing Residence

Sec. 33-243(a)(1)(c)

Will be relocated to an area that is compatible with the historical and architectural character of the structure



Proposed Relocation Site – 1815 Lettmap

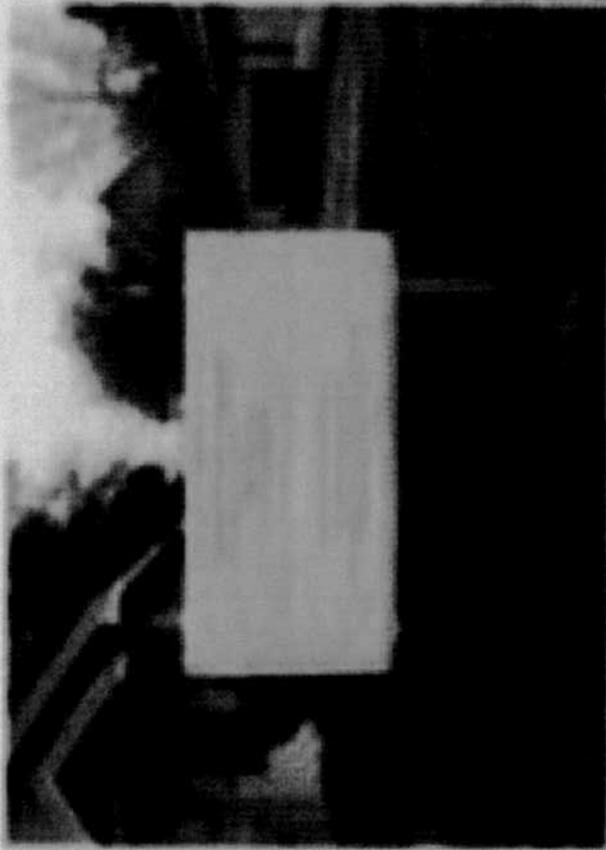
1815 Cortlandt Street
Relocation – Contributing Residence

Sec. 33-243(a)(1)(d)

Can be relocated without significantly diminishing the integrity of the historic district



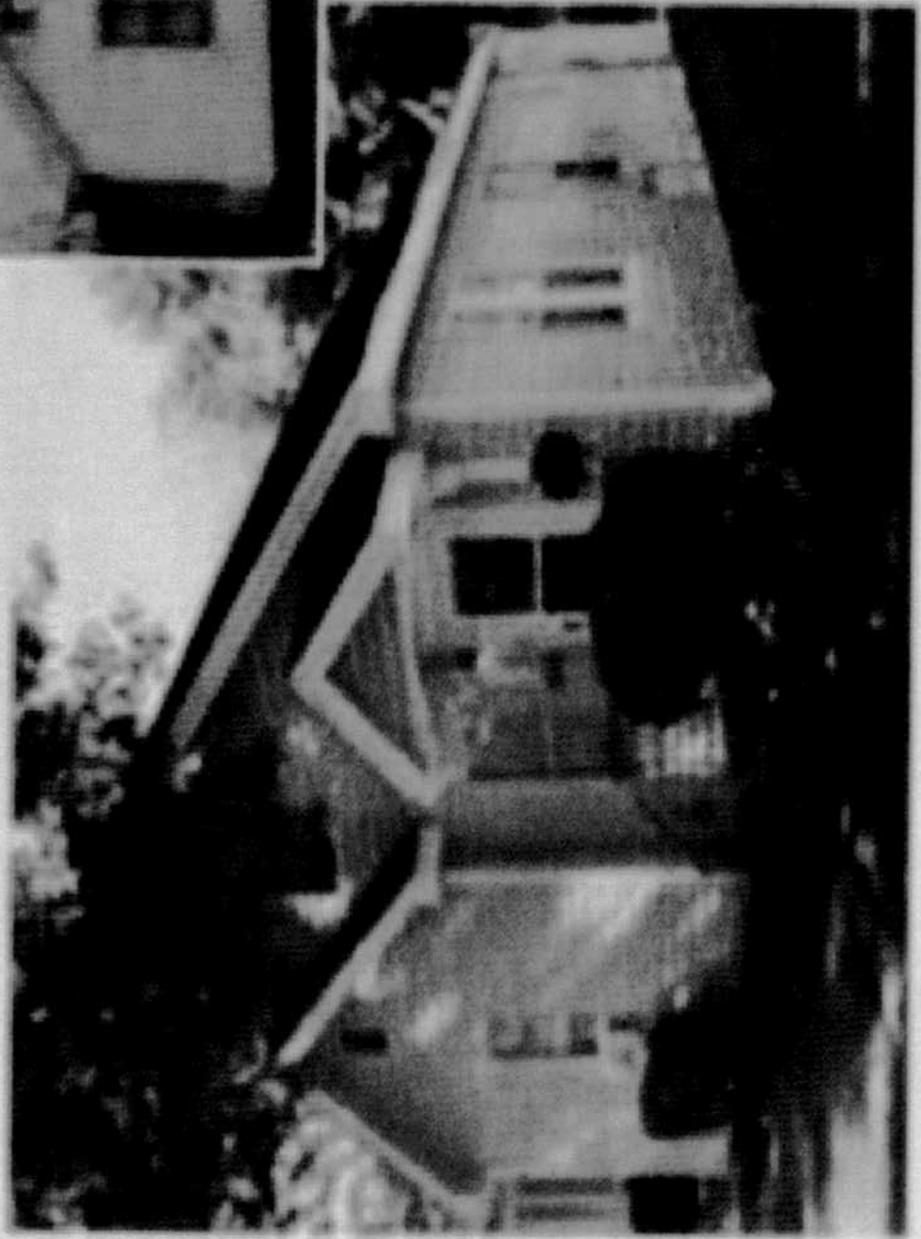
1815 Cortlandt Street
Relocation – Contributing Residence



Public Notice Sign 2/4/14 →
Property on 4/18/14 ↓



**1615 Cortlandt Street
Relocation - Contributing Residence**



Video and audio recording of Planning Commission meeting

Supplement #2
to Appeal

NOTICE OF APPEAL TO THE CITY COUNCIL OF THE CITY OF HOUSTON FROM A VOTE BY THE HOUSTON PLANNING COMMISSION TO UPHOLD THE HOUSTON ARCHEOLOGICAL AND HISTORICAL COMMISSION'S DENIAL OF A CERTIFICATE OF APPROPRIATENESS TO RELOCATE A STRUCTURE AT 1815 CORTLANDT STREET (HISTORIC DISTRICT: HOUSTON HEIGHTS EAST).

To: Anna Russell, City Secretary, City of Houston

From: Jeremy McFarland, Brick Moon Design (Applicant) for Laura Menafee (Owner)

Drafted by: Timothy Kirwin, representative of Applicant and Owner

Re: Appeal Notice and written special exceptions

Date: Submitted July 7, 2014; Supplement submitted July 14, 2014; City of Houston asked Applicant to combine appeals into one submission with the addition of a final report on July 15, 2014.

Per Rule 12 of Section 2-2 of the City of Houston's Code of Ordinances, Applicant and Owner file this Notice of Appeal to the City Council of the City of Houston from a vote by the Planning Commission to uphold the Houston Archeological and Historical Commission's denial of a Certificate of Appropriateness to relocate a structure at 1815 Cortlandt Street.

Whereas, the Houston Archeological and Historical Commission denied a Certificate of Appropriateness to relocate a structure from 1815 Cortlandt Street on April 24, 2014; and

Whereas, the Houston Planning Commission upheld the decision of the Houston Archeological and Historical Commission's denial of a Certificate of Appropriateness on May 15, 2014; and

Whereas, Applicant and Owner may appeal such decision of the Planning Commission to the Houston City Council; and

Whereas, Applicant and Owner may provide for written special exceptions as part of this appeal;

Now Therefore,

1. Applicant and Owner file this appeal to the Houston City Council with the following record:

- Transcript from the certified court reporter that was in attendance at the May 15, 2014, Planning Commission appeal hearing;



- Appeal and Appeal supplement filed by Applicant and Owner to the Planning Commission;
- Planning Commission Agenda packet;
- Staff presentation materials submitted at the Planning Commission appeal hearing;
- Applicant presentation materials submitted at the Planning Commission appeal hearing as well as clean copies of same; and
- Audio and video of Planning Commission appeal hearing.

2. Written special exceptions: Rule 12 of Section 2-2 of the City of Houston Code of Ordinances provides in pertinent part as follows:

“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.”

SPECIAL EXCEPTIONS:

1. The Houston Archeological and Historical Commission (HAHC) failed to comply with the Ordinance by not taking into “consideration the current needs of the applicant and shall be sensitive to the property owner's financial condition in determining whether to issue a certificate of appropriateness.” The HAHC failed to address this requirement in the Ordinance. The adopted report does not contain information that this required step occurred. The financial effects of such denials are being felt by my client. HAHC was required to undertake this analysis and failed to do so.

2. At the hearing before the Planning Commission, staff misinterpreted the law. Staff stated that in order to move a house out of a historic district, it must qualify for landmark status. This is not the law. Section 33-243(a)(1)(a) does not require any protection to move a contributing structure out of a historic district. The Applicant and Owner must show the house has independent historical significance from its current location that will not be diminished with relocation. The fact that the house was built elsewhere and

spent 30 years at another location gives the house independent historical significance. It was moved once, it can be moved again.

3. At the hearing before the Planning Commission, staff misinterpreted the law. Staff stated that the **block** to which a house is to be moved must be compatible with the historical and architectural character of the contributing structure. This is not the law. Section 33-243(a)(1)(c) provides that the **area** to which a house is to be moved must be compatible with the historical and architectural character of the contributing structure. The HAHC states in its adopted report that the area is compatible and staff concurred.

4. At the hearing before the Planning Commission, staff misinterpreted the law. Staff stated that moving the structure will diminish the integrity of the historic district. This is not the law. Section 33-243(a)(1)(d) provides that a house can be moved if it does not “**significantly**” diminish the integrity of the historic district. The HAHC’s report does not use the word “**significantly**” when providing justification for denial under this criteria. Anything removed from a District will diminish the District. That is not the standard. The standard is that the removal will “**significantly**” diminish the integrity of the District. The entire exterior envelope of the house has been modified with little if any remaining historic material. Moving this structure out of the District will not significantly diminish the integrity of the District.

We ask City Council to reverse the Planning Commission’s decision to uphold the HAHC’s denial of a Certificate of Appropriateness and allow this house to be moved out of the District.

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION
PLANNING & DEVELOPMENT DEPARTMENT

Planning Commission
Meeting Date: 05/15/2014

ITEM: V.a

APPLICANT: Timothy Kerwin, attorney, for Jeremy McFarland, Brickmoon Design, designer, and Laura Menefee, property owner

PROPERTY ADDRESS: 1815 Cortlandt Street

HISTORIC DISTRICT: Houston Heights Historic District East

Project Summary:

On January 29, 2014, the applicant submitted an application for a Certificate of Appropriateness (COA) to relocate a Houston Heights Historic District East contributing residence at 1815 Cortlandt Street to a location outside the district.

The application was deferred by the Houston Archaeological and Historical Commission (HAHC) at the February 13 and March 27, 2014 HAHC meetings. At their April 24, 2014 meeting, the HAHC reviewed the applicant's request and found that the relocation request did not meet **Criteria (1)(a, c, and d)** or **Criteria (4)(1, 2 and 3)** for approval found in Chapter 33-243(a). The HAHC voted 5 to 2 to deny the COA.

In accordance with Chapter 33-253, the applicant is appealing this decision to Planning Commission.

Charge to the Planning Commission:

For the relocation of a contributing structure within a historic district to be approved, the applicant must satisfy at least one of four sets of relocation criteria found in Chapter 33-243(a). The application was reviewed and considered under criteria (1) and (4).

The HAHC denied the relocation request, accepting staff's findings that the project did not meet Criteria (1) or (4). The Planning Commission may find in favor of the appellant only if it finds that the applicant has demonstrated that the project meets all criteria for approval under either Criteria (1) or (4).

Project Description:

The residence at 1815 Cortlandt is an example of transitional vernacular residential architecture. The physical form, raised foundation, and architectural details of the house have characteristics of 1920s and '30s Houston Heights residential architecture, yet the structural materials are those that were available at the time the residence was construction in 1941. The one-story single-family bungalow features a gable roof; a projecting front gable bay; and a small applied front stoop and porch roof. The house is in near-to-original condition. The containing block is one of the most architecturally diverse and intact historic residential blocks, with 18 of 22 structures classified as contributing.

The Code of Ordinances definition of 'contributing' is "a building ... that reinforces, or that has conditions, which, if reversed, would reinforce, the cultural, architectural or historical significance of the historic district in which it is located, and that is identified as contributing upon the designation of the historic district in which it is located. The term also includes any structure that was identified as "potentially contributing" in any historic district designated prior to October 13, 2010".

At the time of the Houston Heights Historic District East designation the structure was classified as 'potentially contributing' in the Inventory due to the residence having vinyl siding and aluminum windows. These material alterations are considered reversible when historic housing is being inventoried, and city property tax exemptions are available for reversing such alterations with an approved COA.

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

Attachment B: Applicant's written request for appeal.

Attachment C: Applicant supplemental appeal materials

Attachment D: Public comment received regarding the appeal (two letters in opposition to approval of the COA)

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION
PLANNING & DEVELOPMENT DEPARTMENT

Planning Commission
Meeting Date: 05/15/2014

ITEM: V.a

APPLICANT: Timothy Kerwin, attorney, for Jeremy McFarland, Brickmoon Design, designer, and Laura Menefee, property owner

PROPERTY ADDRESS: 1815 Cortlandt Street

HISTORIC DISTRICT: Houston Heights Historic District East

In the Inventory, the residence was listed as a bungalow constructed circa 1920. Subsequent research revealed that the structure was constructed in 1941. The historic period of significance for the Houston Heights is the 1890s-1940s. It is not required for structures to have a construction date within the period of significance to be classified as contributing.

In 1970, the residence was relocated to 1815 Cortlandt from 502 W. 20th Street in the Houston Heights (less than one mile). Relocated structures are not exempt from being classified as contributing if the structure's historic character is compatible with the district. Houston Heights historic districts contain many structures that have been relocated from their original sites. The original and current location of the subject residence is within the 1891 City of Houston Heights plat. Although relocated, the subject structure remains in its original historic neighborhood.

All current information continues to support a contributing classification.

Timeline of COA Applications for the Property:

- **December 12, 2013 – HAHC denied demolition**
A potential property owner was denied a demolition COA for the residence by the HAHC. The decision supported that the residence has historic value and reaffirmed the contributing classification.
- **January 9, 2014 – Planning Commission appeal, denial upheld**
- **January 15, 2014 – New applicant for relocation**
A representative for a new potential owner of the property began discussions with staff regarding the option to relocate the residence. Staff reviewed the relocation approval criteria with new applicant, and informed the applicant that relocation of a contributing structure outside of the historic district was not recommended as it is equivalent to demolition and such action for the subject residence had recently been denied by the HAHC and Planning Commission.
- **January 29, 2014 – Relocation application submitted**
A COA application for the relocation was submitted and the applicant requested consideration under the same criteria as the demolition application (unusual and compelling circumstance), disputing the historic value of the residence.
- **February 4, 2014 – Application review discussion**
Staff discussed the relocation criteria and the period of significance for the district with the applicant. Staff informed the applicant that the submitted application materials did not provide new information about the residence.
- **February 11, 2014 – Staff recommendation of denial**
Staff informed the applicant that the unusual and compelling circumstances criteria was not satisfied and since no new evidence was presented to indicate compliance with the criteria a similar outcome as December was predicted, however, it was their choice on how to proceed.
- **February 13, 2014 – HAHC deferred relocation**
The applicant presented new materials at the HAHC meeting and requested consideration under relocation criteria (1) instead of criteria (4). The HAHC deferred the item to allow time for proper documentation to be

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

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APPLICANT: Timothy Kerwin, attorney, for Jeremy McFarland, Brickmoon Design, designer, and Laura Menefee, property owner

PROPERTY ADDRESS: 1815 Cortlandt Street

HISTORIC DISTRICT: Houston Heights Historic District East

submitted and reviewed. HAHC expressed concern about protection for the historic residence if relocated out of the district and inquired about whether or not it may qualify for an individual Landmark designation.

- **February 26, 2014 – Applicant acquired ownership of the property**
- **March 3, 2014 – Staff provided criteria (1)/ Landmark designation criteria information to applicant**
- **March 12, 2014 – Additional COA documents and first page of Landmark application form submitted**
- **March 21, 2014 – Staff determined sufficient documentation was not provided**

Staff informed the applicant that sufficient documentation was not provided to review for compliance with criteria (1) and again provided a list of documentation to establish the criteria and Landmark designation.

- **March 26, 2014 – Staff recommendation of denial**

Staff informed the applicant that the current documentation did not satisfy the approval criteria.

- **March 27, 2014 – HAHC deferred relocation**

Applicant requested a deferral from the HAHC to provide further documentation to establish compliance.

- **April 9, 2014 – Additional COA documents submitted**

- **April 22, 2014 – Staff recommendation of denial**

Staff informed the applicant criteria (1) had not been satisfied. The applicant was also informed that none of the requested information to support the Landmark designation criteria was received.

- **April 24, 2014 – HAHC denied relocation**

The HAHC accepted staff's recommendation and denied the applicant a relocation COA as they found criteria (1) and (4) were not satisfied. The applicant and owner were present at the hearing and spoke in favor of the granting the COA.

- **April 27, 2014 – Applicant requested Landmark designation info**

Applicant inquired by email about how the owner of the Denver Harbor property may apply for Landmark/Protected landmark status for the residence.

- **April 28, 2014 – Landmark / Protected Landmark info provided**

Staff again provided the applicant with information regarding Landmark designation criteria and process.

- **May 2, 2014 – Appeal notice filed by the applicant**

Basis for the Houston Archaeological and Historic Commission's decision:

Within city historic districts, the relocation of contributing structures must be approved by HAHC. Relocation of contributing structures must comply with at least one of four sets of criteria found in Chapter 33-243(a) of the Houston Code of Ordinances. These approval criteria are similar to the ones prepared by the National Park Service and are used in jurisdictions throughout the country. In order to issue a COA, the HAHC must find that evidence satisfies Chapter 33-247(a), Criteria (1); or (2); or (3); or (4). See pages 4-5 for approval criteria and staff's findings.

Houston Historic Districts are significant as a collective whole; their historic character defined by the contributing structures. Contributing structures should not be removed to make way for new construction as a reduction of contributing structures dilutes and compromises the historic value of the district. The high standards set by the relocation and demolition criteria reflect this historic preservation principle. All current evidence supports that the transitional bungalow is compatible with, and contributes to, the district.

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

Attachment B: Applicant's written request for appeal.

Attachment C: Applicant supplemental appeal materials

Attachment D: Public comment received regarding the appeal (two letters in opposition to approval of the COA)

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION
PLANNING & DEVELOPMENT DEPARTMENT

Planning Commission
Meeting Date: 05/15/2014

ITEM: V.a

APPLICANT: Timothy Kerwin, attorney, for Jeremy McFarland, Brickmoon Design, designer, and Laura Menefee, property owner

PROPERTY ADDRESS: 1815 Cortlandt Street

HISTORIC DISTRICT: Houston Heights Historic District East

The HAHC voted 5-2 to deny the application on the basis that it did not meet Criteria (1)(a, c, and d) or Criteria (4)(1, 2 and 3). See section below for further elaboration on the approval criteria and HAHC findings.

Approval Criteria:

Sec. 33-243 – Relocation of landmark, protected landmark, or contributing structure:

(a) The HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, contributing structure upon finding that the application satisfies **one or more** the following criteria:

S D NA

S - satisfies D - does not satisfy NA - not applicable

(1) The landmark, contributing structure or potentially contributing structure:

(a) Has architectural or historical value independent of its physical location that will not be diminished with relocation;

Evidence does not support that the historic value of the property is not associated with the Houston Heights Historic District East. All current information supports classification of the structure as 'contributing' and as a structure that reinforces the historic significance of the district. No information has been provided to support that the structure would satisfy the landmark criteria to establish independent historic value, or the opportunity for protection if removed from the district.

(b) Can be moved without significant damage to its physical integrity;

The size, structural and foundation systems, and supporting letter from the relocation service company suggests the structure can be moved without significant damage.

(c) Will be relocated to an area that is compatible with the historical and architectural character of the landmark, contributing structure or potentially contributing structure; and

Evidence supports that the structure is compatible with the Denver Harbor residential neighborhood; however, the proposed containing block does not possess a historic or compatible residential character.

(d) If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.

Evidence does not support that relocation of the structure will not diminish the Houston Heights Historic District East. The district is significant as a collective whole, the historic character defined by the contributing structures. Contributing structures should not be removed to make way for new construction. A reduction in number of contributing structures dilutes and compromises the historic value of the district.

(2) The relocation is necessary to protect the landmark, contributing structure or potentially contributing structure from demolition resulting from a public improvement project;

The relocation does not qualify for review under criteria (2); property is not involved in a public improvement project.

(3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-247(c):

Attachment A: April 2014 staff HAHC Action Report (containing project details, staff research, application materials, public comment letters)

Attachment B: Applicant's written request for appeal.

Attachment C: Applicant supplemental appeal materials

Attachment D: Public comment received regarding the appeal (two letters in opposition to approval of the COA)

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION
PLANNING & DEVELOPMENT DEPARTMENT

Planning Commission
Meeting Date: 05/15/2014

ITEM: V.a

APPLICANT: Timothy Kerwin, attorney, for Jeremy McFarland, Brickmoon Design, designer, and Laura Menefee, property owner

PROPERTY ADDRESS: 1815 Cortlandt Street

HISTORIC DISTRICT: Houston Heights Historic District East

No support was provided for review under criteria (3) to establish an economic hardship.

- (1) That the property is incapable of earning a reasonable return, without regard to whether the return is the most profitable return, including without limitation, whether the costs of maintenance or improvement of the property exceed its fair market value;
- (2) That the property cannot be adapted for any other use, whether by the current owner, by a purchaser or by a lessee, that would result in a reasonable return;
- (3) That efforts to find a purchaser or lessee interested in acquiring the property and preserving it have failed; and
- (4) If the applicant is a nonprofit organization, determination of an unreasonable economic hardship shall instead be based upon whether the denial of a certificate of appropriateness financially prevents or seriously interferes with carrying out the mission, purpose, or function of the nonprofit corporation

-
- (4) The applicant has established unusual or compelling circumstances pursuant to the criteria of section 33-247(d):

- (1) That current information does not support the historic or archaeological significance of this building, structure or object or its importance to the integrity of an historic district, if applicable;
All current information supports the structure's historic significance as a Houston Heights, 1940s transitional bungalow. The removal of the original materials and 1970s relocation do not support a non-contributing classification. The architectural character and construction date are compatible with, and contribute to, the Houston Heights Historic District East.
- (2) Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans have on the architectural, cultural, historical or archaeological character of the surrounding area; and
Future plans to construct a new single-family residence on the property have been indicated. Further information regarding the new construction has not provided.
- (3) Whether reasonable measures can be taken to save the building, structure or object from further deterioration, collapse, arson, vandalism or neglect.
No information has been provided indicating there is any present threat to the structure requiring any such measures to be taken.

Applicant's Grounds for Appeal:

See Attachment B (appeal letter) and Attachment C (supplemental appeal materials) for the applicant's grounds for appeal. In addition to asserting that the relocation application satisfies Criteria (1) criteria, the applicant's materials claim procedural defects. Below are staff's comments on these procedural defects as stated by the applicants' attorney:

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CITY OF HOUSTON

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1) The HAHC did not make any findings.

At the April meeting, the HAHC voted 5-2 to accept staff's findings and recommendation of denial.

2) The HAHC did not consider the current needs of the applicant or exhibit sensitivity to the property owner's financial condition.

Sec 33.240(b) allows the HAHC flexibility in applying the criteria in cases in which applicants do not have the financial means to comply with a strict application of the rules. The applicant has the burden of proof in demonstrating the application meets criteria and demonstrating 'current needs' and 'financial condition.'

No documentation or evidence regarding the property owner's financial condition was provided to the HAHC for evaluation, nor has the issue been previously raised with staff or before the HAHC.

Basis for the Applicant's appeal:

Sec. 33-253 – Appeal

(a) An applicant aggrieved by a decision of the HAHC with respect to any certificate of appropriateness may appeal to the planning commission by filing a written notice of appeal, stating the grounds for the appeal, with the director within ten days following the date the HAHC renders its decision.

(b) The planning commission shall consider the appeal at its first regularly scheduled meeting for which required notice can be given. The commission shall consider the application, the findings of the HAHC and any evidence presented at the meeting at which the appeal is considered. The planning commission shall reverse or affirm the decision of the HAHC based upon the criteria applicable to the certificate of appropriateness. The decision of the commission shall be final. If the commission does not make a decision on the appeal within 30 days following the commission's hearing on the appeal, the decision of the HAHC with respect to the application for the certificate of appropriateness shall be deemed affirmed.

(c) An applicant aggrieved by the decision of the planning commission on an appeal from a decision of the HAHC may appeal to the city council. The city council shall consider the appeal at its first regularly scheduled meeting for which the required notice can be given. The city council shall consider the appeal under the provisions of Rule 12 of Section 2-2 of this code. At the conclusion of the city council's review of the matter, the city council shall reverse or affirm the decision of the planning commission. The decision of the city council shall be final and exhaust the applicant's administrative remedies.

(d) The director shall provide the applicant with notice of the time and place of the meeting at which the appeal will be considered by mail no less than ten days before the date of the meeting.

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25
JUL 30 2014

Consideration of proposed amendments to Item 25A below, submitted in writing on July 11, 2014 by Council Members Boykins, Laster and Kubosh, as set forth in the attached Exhibits 1-3
DELAYED BY MOTION #2014-547, 6/11/14

25A

MOTION NO. 2014 0547

JUL 30 2014

MOTION by Council Member Boykins that the following proposed Ordinance be delayed for two weeks together with proposed amendments:

Item 59 - Ordinance Amending Chapters 1 and 46 of the Code of Ordinances, Houston, Texas, relating to regulation of vehicles for hire; creating a regulatory framework for the operation of mobile dispatch services and transportation network companies; declaring certain conduct to be unlawful and providing penalties therefor; containing findings and other provisions relating to the foregoing subject; providing for severability; containing a repealer

Seconded by Council Member Martin

Council Member Laster offered a substitute Motion that Item 59 together with proposed Amendments be delayed until July 30, 2014.

Seconded by Council Member Martin

VOTE ON SUBSTITUTE MOTION:

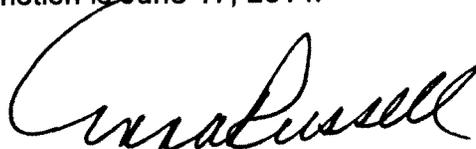
Mayor Parker, Council Members Stardig, Davis, Cohen, Boykins, Martin, Nguyen, Pennington, Gonzalez, Gallegos, Laster, Green, Robinson, Kubosh, Bradford and Christie voting aye

Council Member Costello voting no

SUBSTITUTE MOTION CARRIED

PASSED AND ADOPTED this 11th day of June 2014.

Pursuant to Article VI, Section 6 of the City Charter, the effective date of the foregoing motion is June 17, 2014.



City Secretary

NOTE:
SEE
BACKUP
FOR
ORDINANCE

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

Subject: APPROVE AN ORDINANCE AMENDING CHAPTER 1 AND VARIOUS PROVISIONS OF CHAPTER 46 OF THE HOUSTON CODE OF ORDINANCES, RELATING TO VEHICLES-FOR-HIRE

Category #	Page 1 of 2	RCA#
RSA	59	AT

FROM (Department or other point of origin):

Tina Paez, Director
Administration & Regulatory Affairs Department

Origination Date

May 7, 2014

Agenda Date

~~JUN 04 2014~~

DIRECTOR'S SIGNATURE

Handwritten signature
30 May 2014

Council District(s) affected:

JUN 1 1 2014

All

For additional information contact:

Tina Paez Phone: (832) 393-8500
Chris Newport Phone: (832) 393-1050

Date and Identification of prior authorizing Council Action:

N/A

RECOMMENDATION: (Summary)

Approve an ordinance amending Chapter 1 and various provisions of Chapter 46 of the Houston Code of Ordinances relating to vehicles-for-hire

Amount of Funding: N/A

FIN Budget

SOURCE OF FUNDING: N/A

SPECIFIC EXPLANATION:

The Administration & Regulatory Affairs Department (ARA) recommends that City Council approve an ordinance amending Chapter 46 of the City of Houston Code of Ordinances ("Chapter 46") relating to vehicles-for-hire.

City regulations governing vehicles-for-hire are in place to ensure the health and safety of the riding public and encourage service quality. Chapter 46 establishes the standards, regulations, and permitting and licensing requirements for the vehicle-for-hire industry operating within the city of Houston. ARA's Regulatory Affairs Division is responsible for administration and enforcement of these provisions. Of the nine existing categories of transportation services, eight are regulated under Chapter 46 — charter/sightseeing, jitneys, limousines, low speed shuttles, mobile dispatch, pedicabs, school buses and taxicabs. Scheduled ground transportation (SGT) services are regulated under Chapter 9.

In 2010, ARA initiated a process to improve the vehicle-for-hire regulatory framework. This five-year, multi-part initiative impacts all categories of vehicles-for-hire regulated by the City. Part I focused on jitneys, pedicabs, and low speed shuttles — the "Green Vehicle Initiative." Part II is a multi-phase, multi-year initiative involving taxicabs. Part III centers on housekeeping amendments across multiple vehicle-for-hire categories, the creation of a regulatory framework to address smart phone dispatch applications, and the uniform application of regulations across vehicle-for-hire categories. ARA's current recommendations are captured under Part III. Highlights of the proposed recommendations are summarized below.

Proposed Amendments Related to All Categories of Vehicles-for-Hire

The City of Houston regulates many categories of vehicles-for-hire, but there are fundamental requirements for vehicles and drivers that are applicable to all categories. Rather than continue to articulate these requirements in a repetitive manner throughout Chapter 46, the requirements are being articulated once in the General Section of the Ordinance. An example of this involves the standardization of the drivers' license application process.

In addition, new requirements are being added that will apply to all categories of vehicles-for-hire, and these are also described in the General Section of the Ordinance. These include trip and revenue data submission requirements and anti-discrimination requirements.

Proposed Amendments Related to Taxicabs, Limousines, Jitneys

In keeping with the improvements to taxicab services that began in 2010, we are recommending the requirement for an integrated credit card/GPS system be mandatory. To date, 75% of taxicab vehicles are fitted with this equipment. The

REQUIRED AUTHORIZATION

FIN Department:

Other Authorization:

Other Authorization:

Date:
05/07/14

**Subject: APPROVE AN ORDINANCE AMENDING
CHAPTER 46 OF THE CODE OF ORDINANCES
RELATING TO VEHICLES-FOR-HIRE**

Originator's
Initials
TP

Page 2 of 2

Houston Taxi Study survey results indicated that 100% of Houston riders expected credit card processing equipment to be available in taxicabs.

Two changes are proposed in the limousine provisions of the ordinance: elimination of the existing \$70 minimum fare and elimination of the four-vehicle minimum requirement for an entity to receive a Houston Limousine License.

ARA also recommends that the pilot program allowing taxicab and limousine vehicles to operate for a seventh year be codified. The proposed ordinance amendment maintains the requirement that only those vehicles that pass a rigorous third-party inspection will be eligible for a seventh year of service as a taxicab or limousine. The amendment also proposes that jitney vehicles be eligible for an eleventh year of service upon passing the rigorous third party inspection.

Finally, commercial auto liability insurance limits would be raised to \$1 million per occurrence for limousines and jitneys.

Proposed Amendments Related to Mobile Dispatch Services (MDS)

Mobile dispatch services (MDS) regulations were created in Chapter 46 in December 2012. To date, only one company, GetRide, has registered with the City to provide these services. Because MDS companies dispatch only duly authorized City-permitted vehicles and City-licensed drivers, ARA recommends each MDS company register with, rather than be permitted by, the City of Houston.

The proposed amendments expand the MDS provisions to include definitions, as well as the type of information that must be provided on the registration application. The amendments also define the process for issuance of registrations, establish an annual renewal period, and provide for penalties for violation of the MDS provisions.

Proposed Amendments Related to Transportation Network Companies (TNCs)

The proposed amendments create a new category of vehicle-for-hire: transportation network services. These services require the use of transportation network vehicles, which are private passenger motor vehicles. Vehicles that cannot be used to provide these services are taxicabs, pedicabs, jitneys, charter and sightseeing vehicles, limousines, school vehicles, or low speed shuttles permitted and licensed by the City. Other provisions applying to the new services include:

- TNCs must be permitted by the City and pay an annual fee equal to 2% of gross revenues generated in Houston;
- TNCs are prohibited from owning, leasing, or financing any vehicles;
- Transportation network drivers are required to obtain a City-issued license and to have their vehicles undergo a City-approved inspection;
- TNCs must maintain commercial automobile liability insurance to protect third parties, including the passenger and the public;
- TNCs may accept trips only through their internet-enabled smart phone application, i.e. they must be pre-arranged trips. They are prohibited from accepting street hails or operating on demand.

We anticipate at least two companies, Uber (operating UberX) and Lyft, will apply for permits to operate under this new peer-to-peer transportation service category.

In developing these proposals, ARA performed extensive research, reviewing best practices in other jurisdictions and looking at evidence of potential impact to the incumbent stakeholders wherever it is available. As much as possible, we have attempted to make fact-based recommendations. We have also solicited stakeholder feedback, holding at least 8 meetings with taxicab stakeholders, 7 meetings with limousine stakeholders, 3 meetings with Uber, 3 meetings with Lyft, and 1 meeting with a jitney stakeholder. We also presented briefings in a joint meeting of the Quality of Life and Public Safety Committees on two occasions: February 25, 2014 and April 22, 2014.

Revised

21
JUN 28 2014

Chapter 46 VEHICLES FOR HIRE

ARTICLE I. IN GENERAL

DIVISION 1. VEHICLES FOR HIRE GENERALLY

Sec. 46-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings assigned to them in this section, except where the context clearly indicates a different meaning:

Central business district means the area beginning at the intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a ~~northwesterly~~~~northeasterly~~ and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

Certificate of registration has the meaning assigned in section 46-451 of this Code.

Certification decal means and refers to a metal tag, decal, or placard for attachment on a vehicle for hire and ~~is or other evidence that~~ a permit or certificate of registration has been issued and an inspection performed by the director ~~for attachment on a vehicle for hire operated pursuant to a permit.~~

Compensation means any money, thing of value, payment, consideration, reward, tip, donation, gratuity, or profit paid to, accepted, or received by the driver or owner of any vehicle providing transportation for a person; whether paid upon solicitation, demand or contract, or voluntarily, or intended as a gratuity or donation. Reimbursement for the following is not *compensation*:

- (1) Tolls;
- (2) Vehicle operating costs in an amount that is equal to or less than the most current privately-owned vehicle mileage reimbursement rates established by the U.S. General Services Administration; and
- (3) Parking costs at the shared destination.

Curb means the raised edge of the street, driveway, or other public or private way upon which a vehicle for hire is operating, provided that if no raised edge curbing exists, then it means the edge of the area that is paved for vehicular operation.

Customer service liaison refers to a representative made available to the city by the permittee for the purpose of coordinating with the city to resolve any passenger complaints concerning transportation services rendered by the permittee or registrant.

Director means the director of the department of administration and regulatory affairs or the director's designee and his duly authorized representatives.

Disability has the meaning assigned in section 17-214 of this Code.

For hire means providing, or offering to provide, a transportation service in exchange for compensation any form of payment or gratuity, whether monetary or other valuable consideration. The term expressly excludes car pooling or ride sharing arrangements for which no fee is imposed.

Licensee means any person who is the holder of a current and valid license issued pursuant to division 2 of this article authorizing that person to drive a specific class of vehicle for hire.

Metropolitan area means the Houston-Sugar Land-Baytown metropolitan statistical area, as defined by the Office of Management and Budget within the Executive Office of the President of the United States Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

Mobile dispatch service has the meaning assigned in section 46-451 of this Code means and refers to the operation of a scheduling service that enables prospective passengers to request immediate or schedule pre-arranged vehicle for hire transportation services by electronic, radio or telephonic communication from a portable or handheld device, monitor, smartphone, or other electronic device or unit indicating the location of the passenger for immediate or pre-arranged vehicle for hire transportation services which information is then relayed to a vehicle for hire by radio or data communication of any type.

Permittee means any person, partnership, corporation, firm, joint venture, limited liability company, association, organization, and any other entity holding a permit issued pursuant to this chapter.

Place of business means a location where the city may send and the permittee shall accept all notices from the city.

Pre-arranged transportation service means scheduled vehicle for hire transportation services involving the issuance of that is scheduled by or through a mobile dispatch service that issues a trip confirmation not less than 30 minutes in advance of before a vehicle for hire rendering transportation services to picks up a prospective passenger who requested to be transported.

Registrant has the meaning assigned in section 46-451 of this Code.

Ridesharing, when describing conduct, means the travelling of two or more persons by any mode of private passenger vehicle, including, but not limited to, carpooling, vanpooling, buspooling, to any location incidental to another purpose of the driver, for which compensation is not accepted, collected, encouraged, promoted, or requested.

Service animal has the meaning assigned in section 20-18 of this Code.

Vehicle for hire, when describing a class of vehicles, means a taxicab, pedicab, sightseeing and charter vehicle, chauffeured limousine, school vehicle, jitney, ~~or~~ low-speed shuttle, or transportation network vehicle used for the provision of transportation services for hire to the general public. The term expressly excludes vehicles operated or regulated by other government entities.

Sec. 46-2. Refusal to convey.

It shall be unlawful for any ~~permittee, registrant, or licenseedriver of any vehicle for hire~~ to refuse to transport a passenger on ~~thea~~ basis of a passenger's race, color, ethnicity, religion, sex, national origin, age, familial status, marital status, military status, sexual orientation, genetic information, gender identity, pregnancy or disability, including a driver's refusal to transport any service animal or medical equipment utilized in conjunction with a passenger's disability. All permittees, registrants, and licensees shall be required to provide safe, reliable, consistent and equivalent transportation services to the general public, including but not limited to persons with disabilities. It shall be unlawful for any ~~permittee, registrant, or licenseedriver of any vehicle for hire~~ to refuse to transport a passenger at the rates authorized by this ~~chapterarticle~~ or to demand or receive an amount in excess of the rates authorized by this ~~chapterarticle~~. It is an affirmative defense to prosecution under this subsection that the ~~permittee, registrant, or licenseedriver~~ advised the passenger of the fare or estimated fare to the passenger's destination, and the passenger advised that he did not have the means to pay the fare.

Sec. 46-3. Taxes to be paid.

No person shall use the streets of the city for the operation of a vehicle for hire unless the ad valorem taxes due and owing on all properties used as a vehicle for hire shall have first been paid.

Sec. 46-4. Failure to pay permit and license fees; failure to maintain insurance.

A license or permit issued for the operation of a vehicle for hire may be terminated at any time for failure to pay any applicable fee or installment payments imposed pursuant to this chapter or failure to maintain the requisite insurance.

Sec. 46-5. Revocations, suspensions, and refusals to renew.

(a) Permits, certificates of registration, and licenses issued pursuant to this chapter may be denied, revoked, suspended, or refused for renewal based upon the applicable grounds specified in section 1-10 of this Code by following procedures specified in section 1-9 of this Code.

(b) Additionally, permits, certificates of registration, and licenses may be revoked, suspended, or refused for renewal following notice and a hearing conducted by an impartial hearing officer appointed by the director if:

- (1) The permit, certificate of registration, or license was issued through error;
- (2) The applicant provided materially false or incomplete information on the permit, certificate of registration, or license application; or
- (3) ~~There are three or more instances within any one year period in which~~ the permittee or registrant or the permittee's or registrant's employee or licensee violates any provision of this chapter article or regulation issued by the director hereunder. Consistent with sections 1-9 and 1-10 of this Code and applicable state laws, the director shall promulgate regulations for any required hearings and procedures.

(c) The director shall not designate a person to act as hearing officer who participated in the review of the application. Hearings shall be conducted in a manner that is consistent with principles of due process. The applicant may be represented by legal counsel, may present evidence and cross examine witnesses presented by the city. The hearing officer shall have the discretion to exclude from hearings any person who is not the applicant, the director, their legal representatives, and such other persons not entitled to attend and participate as a matter of law and any persons whose presence the hearing officer deems unnecessary or expedient to the complete resolution of the matter. The decision of the hearing officer, which shall be based upon the preponderance of credible evidence presented, shall be final, subject to the applicant's right to appeal pursuant to state law if the denial is based upon section 1-10 of this Code.

Sec. 46-6. Physician's certificate of medical examination; fingerprints; drug screening.

(a) Each applicant for a license issued pursuant to this chapter shall provide ~~have at all times on file in the office of the director~~ a certificate from a duly licensed physician, ~~which certificate is not more than two years old,~~ showing that the physician has examined the person within the 30 day period preceding the date of the filing of the license application and that the person has no disability or ailment that would prevent the person from safely operating the vehicle for hire for which the applicant has sought a license. The director shall have the authority to require a medical examination and

the provision of a replacement certificate at any time upon five days' notice in writing to a licensee or driver if the director has cause to believe that the driver's medical condition has materially changed or that the previously filed certificate is otherwise no longer accurate.

(b) Additionally, each applicant for a license issued pursuant to this chapter shall provide or cause to be provided evidence that the applicant has passed a drug screening test within the 30 day period preceding the date of filing of the application for issuance or renewal. The director shall promulgate rules and regulations relating to the drug screening test. The test procedure shall be equivalent to that prescribed by the mayor for pre-employment drug screenings for city employees. The director shall authorize laboratories and facilities that meet nationally recognized standards to obtain samples and perform the tests. The responsibility for obtaining the test and all costs associated therewith shall rest with the applicants.

(c) All~~Additionally, each applicants~~ for a permit, certificate of registration, or license issued pursuant to this chapter shall:

- ~~(1) Submit~~ submit himself to be fingerprinted at the location indicated by the director to determine if the applicant has been convicted of any applicable offense(s) listed in subsection (a) of section 1-10 of this Code. The applicant shall complete any forms required for the director to obtain the report and shall bear the cost to cover any fees imposed by state or federal agencies for the report. The provision of this requirement shall not be construed to preclude the director from obtaining interim reports at the expense of the city.~~If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested; and~~
- ~~(2) Provide or cause to be provided evidence that the applicant has passed a drug screening test within the 30 day period preceding the date of filing of the application for issuance or renewal. The director shall promulgate rules and regulations relating to the drug screening test. The test procedure shall be equivalent to that prescribed by the mayor for pre-employment drug screenings for city employees. The director shall authorize laboratories and facilities that meet nationally recognized standards to obtain samples and perform the tests. The responsibility for obtaining the test and all costs associated therewith shall rest with the applicants.~~

Sec. 46-7. Criminal history check.

Upon initial application for a license, ~~upon the filing of an amended application adding one or more new drivers,~~ and at license renewal intervals stated in this chapter, the director shall cause the criminal history of each person designated as a driver in an application for a license to be researched. Each person designated as a driver in an application shall complete any forms required for the director to obtain the report, and the applicant shall present the required completed forms to the director and shall bear

~~the cost, along with funding in a manner specified~~ to cover any fees imposed by state or federal agencies for the report. The provision of this requirement shall not be construed to preclude the director from obtaining interim reports at the expense of the city.

Sec. 46-8. Change of information.

It shall be the duty of each registrant, permittee, licensee, and all applicants for a permit, certificate of registration, or license issued pursuant to this chapter to advise the director immediately of any change of mailing address or any other information required to be submitted pursuant to this ~~chapter article~~. Any change in information shall be submitted within ten calendar days of the change on the form prescribed by the director. Notices under this article shall be effective if mailed to the last address provided to the director. The failure of a permittee, registrant, or licensee, or applicant for a permit, certificate of registration, or license to receive any notice that is properly addressed and mailed to the last known address shall not affect any action authorized or taken under this article, and the only obligation of the director with respect to returned notices shall be to publicly post them as provided herein or by regulation of the director.

Sec. 46-9. Accident reports.

(a) When any vehicle for hire is involved in an accident or collision that results in any injury or damage to any person or property, including, but not limited to, damage to the vehicle for hire or injury of the licensee or a passenger, the licensee shall report the accident or collision to the permittee without delay. The permittee shall keep on the permittee's premises records of all accidents and collisions upon forms to be promulgated by the director, which shall include the following information:

- (1) The permittee's and the licensee's names;
- (2) The licensee's driver license number; ~~and~~
- (3) The time and location of the accident or collision; and
- (4) A detailed description of any injury or damage to any person or property involved in the accident or collision.

(b) A permittee shall report any accident or collision to the director not later than five business days after the accident or collision. Upon one hour's prior request by the director during normal business hours, the permittee shall make the records available to the director for inspection and copying.

(c) A vehicle for hire involved in an accident shall not thereafter be placed in service and used in operation as a vehicle for hire until it has been inspected by the director. If the director's inspection reveals that the vehicle for hire has been damaged to an extent that it is not in a reasonably good operating condition from the standpoint of the safety, health and comfort of passengers, the director shall order the vehicle for hire out of service until the director has authorized the return of the vehicle for hire to

operations, which authorization shall not be given until proper repairs or corrections have been made and the vehicle for hire is inspected and meets all applicable minimum operation requirements prescribed by this chapter.

Sec. 46-9.1. Passenger comfort; courtesy.

(a) It shall be unlawful for the permittee or licensee to suffer, allow or cause the vehicle for hire to be in service at any time during which the vehicle's heating, ventilating, and air conditioning system, if applicable, is not in good repair and capable of functioning within the tolerances of the vehicle manufacturer's specifications.

(b) It shall be the duty of the licensee to ensure that the vehicle for hire is operated for the comfort of the passengers and that the vehicle's heating, ventilating, and air conditioning system, if applicable, is in operation at all times while one or more passengers are present in the vehicle and is functioning in accordance with a passenger's reasonable request for heating, ventilating, or cooling, unless the passenger(s) specifically request that the system be turned off.

(c) No licensee while operating a vehicle for hire with passengers present shall:

- (1) Use abusive, indecent, profane or vulgar language that by its very utterance tends to incite an immediate breach of the peace;
- (2) Make any offensive gesture or display that by its very nature tends to incite an immediate breach of the peace;
- (3) Create by chemical means any noxious and unreasonable odor;
- (4) Threaten another person in an obviously offensive manner;
- (5) Fight with another person; or
- (6) Engage in any other conduct that is a violation of law.

Sec. 46-9.2. Vehicle for hire condition.

It shall be unlawful for the permittee or licensee of any vehicle for hire to allow or cause the vehicle for hire to be in service at any time that the cleanliness and condition of the vehicle for hire do not meet any one or more of the following standards:

- (1) The passenger compartment of the vehicle is free of litter and debris.
- (2) The passenger compartment of the vehicle is free of any personal items of the licensee or other objects that would restrict the seating comfort of the passengers.
- (3) The vehicle is free of noxious or offensive odors.

- (4) The carpet, seating surfaces and head liner, if applicable, have no tears, exposed springs or underparts and are free of any spots or stains that are removable with a reasonable cleaning effort.
- (5) The exterior of the vehicle is free from debris and dirt, commensurate with ambient weather conditions and free of any paint or body work damage, excepting "door dings," minor scratches, and similar defects that are not significantly visible.
- (6) The vehicle has no broken windows or windows with cracks, except for cracks in places that do not interfere with licensee's vision.
- (7) The vehicle has hubcaps or wheel covers on all four wheels if it was so equipped by the manufacturer.

Sec. 46-9.3. Duty to inspect vehicle; procedure when passenger leaves article in vehicle for hire.

(a) Each licensee shall inspect his vehicle for hire before going on duty and after discharging each passenger to see that the vehicle is free of cigars, cigarettes, papers, bottles, and anything that could cause offensive or objectionable odors. He shall check the interior of the vehicle and the trunk, if applicable, to see that no articles have been left in the vehicle after each passenger reaches his destination. In the event a passenger should leave any article in the vehicle, the licensee shall immediately notify the permittee or registrant and shall immediately return the article to the owner, the permittee, the registrant, a company representative, or a customer service liaison before making another trip.

(b) The permittee, registrant, company representative, or customer service liaison shall keep the article for a period of not more than ten days and, if the owner of the article has not called for it within that period of time, shall then deliver the lost article to the office of the chief of police. The chief of police shall give the permittee, registrant, company representative, or customer service liaison a receipt for the article and, following any holding period required for the redemption, shall cause the item to be disposed of in accordance with applicable law.

Sec. 46-10. Deficient service or operation; action by director.

Should the director determine upon his own initiative or upon complaint of any person that the service authorized to be provided by any permittee or registrant is not being operated so as to ~~serve fully~~ provide safe, reliable, equivalent and consistent for hire transportation services to the general public ~~the public safety or welfare~~, including but not limited to the operation of unsuitable or unsafe equipment or any other matter incident to the such operation or the unsafe or unlawful operation of the vehicle for hire in violation of any provision of this chapter or applicable state or federal law, the director shall notify the permittee or registrant ~~of his concerns~~ by clearly delineating the respects

in which the service is deficient or the specific incident of the alleged unsafe or unlawful operation of a vehicle for hire operated by the permittee or registrant and require that the conditions complained of be remedied within such time as the director~~he~~ may designate. In the event the conditions are not remedied within the time specified, the director ~~he~~ may either suspend the permit or certificate of registration for a period not to exceed 15 days or revoke the permit after providing a hearing in a manner consistent with section 1-9 of this Code.

Sec. 46-11. Records to be kept by permittees and registrants.

(a) Permittees and registrants shall maintain business and operations records in a manner that demonstrates compliance with this chapter as provided by regulation of the director.

(b) Permittees and registrants shall collect, maintain, and provide to the director on a quarterly basis and on demand, operations data pertaining to the performance or facilitation of transportation services, as follows:

- (1) The total number of trips provided by the permittee or registrant in the city, specifying the number of trips provided by all authorized methodologies used to connect prospective passengers with the permittee's or registrant's vehicle for hire transportation service, including but not limited to the number of trips provided as pre-arranged transportation services and the number of trips provided as a result of the direct, in-person solicitation of the licensee by a prospective passenger (i.e. street hailing), when direct, in-person solicitation of the licensee by a prospective passenger is an appropriate means of requesting vehicle for hire transportation services;
- (2) The total amount of revenue retained by the permittee or registrant;
- (3) The total amount of revenue retained by the permittee's or registrant's licensees;
- (4) The gross receipts generated by the permittee's or registrant's vehicle for hire service in the city, specifying the gross receipts produced as a result of all authorized methodologies used to connect prospective passengers with the permittee's or registrant's vehicle for hire transportation service, including but not limited to gross receipts generated from pre-arranged transportation services and the gross receipts generated as a result of the direct, in-person solicitation of the licensee by a prospective passenger (i.e. street hailing), when direct, in-person solicitation of the licensee by a prospective passenger is an appropriate means of requesting vehicle for hire transportation services;

- (5) The total number of trips provided to passengers traveling to George Bush Intercontinental Airport and William P. Hobby Airport, if applicable;
- (6) The total number of permitted vehicles in operation;
- (7) The total number of vehicles available and in use by the permittee or registrant that are wheelchair accessible vehicles or are vehicles constructed and designed or redesigned, modified, or equipped to provide vehicle for hire transportation services to persons with disabilities who require the use of a wheelchair as a means of movement or ability to move from one place to another;
- (8) The total number of wheelchair accessible trips requested of the permittee or registrant;
- (9) The total number of wheelchair accessible trips completed by the permittee or registrant;
- (10) The total number of licensees that provide vehicle for hire transportation services on behalf of the permittee or registrant;
- (11) The total number of individuals employed by the permittee or registrant, divided and quantified by function;
- (12) The total number of rides requested and accepted by the permittee or registrant and its licensees within each zip code within the city; and the number of rides that were requested but not accepted by the permittee or registrant and its licensees within each zip code;
- (13) The total number of accidents or collisions involving a permittee or registrant and its licensees, including the date and time of the accident or collision, the cause of the accident or collision; and
- (14) The total number of hours each of the permittee's or registrant's licensees spent providing vehicle for hire transportation services.

(c) Additionally, for purposes of law enforcement, emergency response, and complaint resolution, all permittees and registrants shall collect, maintain, and provide to the director, on demand, all real-time tracking information concerning the permittee's or registrant's licensees and vehicles, including access to the licensee's identifying information, GPS location data, and whether or not the licensee is engaged with a passenger. The provisions of this subsection shall only apply to permittees and registrants operating vehicles for hire equipped with global positioning satellite equipment or permittees and registrants using internet-enabled applications or digital platforms to send or transmit electronic, radio or telephonic communication through the use of a portable or handheld device, monitor, smartphone, or other electronic device or

unit indicating the location of the passenger which information is then relayed to a vehicle for hire by radio or data communication of any type.

Sec. 46-11.1. Fire extinguisher required~~Mobile dispatch services.~~

~~_____ (a) All mobile dispatch services shall be responsible for ensuring that any driver assigned to provide transportation services and the vehicle used in the rendition of the transportation services are duly authorized to provide such services pursuant to this chapter.~~

~~_____ (b) All mobile dispatch services shall register with the director and provide and maintain accurate records of all permittees and licensees providing vehicle for hire transportation services by the mobile dispatch service.~~

_____ Except for pedicabs operated pursuant to article III of this chapter, no permittee or licensee shall operate or cause to be operated any vehicle for hire within the city unless it is equipped with a fire extinguisher consistent with Section 547.607 of the Texas Transportation Code stored within reach of the driver for immediate use.

Sec. 46-11.2. Use of cellular telephones and electronic communication devices prohibited.

_____ (a) It shall be unlawful for any permittee, registrant or licensee to use or cause to be used any cellular telephone or any other electronic communication device to place or receive a phone call or write, send, or read a text-based communication during the active provision of transportation services while the passenger is in the vehicle for hire unless the cellular telephone or electronic communication device is specifically designed and configured to allow voice-operated and hands-free operation to listen and talk or dictate, send, or listen to text-based communication and is used in that manner during the active provision of transportation services while the passenger is in the vehicle for hire.

_____ (b) The provisions of this section shall not prohibit the use of an electronic communication device designed, configured and used to provide voice-operated and hands-free navigation assistance to the licensee during the active provision of transportation services while the passenger is in the vehicle for hire.

_____ (c) Permittees, registrants and licensees may use or cause to be used cellular telephones or other electronic communication devices while the vehicle for hire is lawfully standing or parked.

_____ (d) It is an affirmative defense to prosecution under this section that the permittee, registrant or licensee used or caused to be used a cellular telephone or other electronic communication device during the active provision of transportation services while the passenger is in the vehicle for hire to contact 9-1-1 to report an imminent threat to life or property; and

- (1) The licensee could not safely stop the vehicle for hire to initiate contact with 9-1-1; and
- (2) The licensee provides documentary proof of communication with 9-1-1.

Sec. 46-11.3. Vehicle for hire title classification.

No vehicle for hire authorized to operate as such pursuant to the terms of this chapter shall have a title classification of "salvage," "junk," "rebuilt-salvage," "total loss," "non-repairable," or any equivalent or comparable classification in any other jurisdiction.

Sec. 46-11.4. Vehicle removal.

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

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

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

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

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

(e) Upon receipt of a complete and timely filed hearing request, the clerk of the municipal courts shall schedule a hearing to occur as soon as practicable; provided

however, all hearings conducted pursuant to this section shall be held within ten business days after the date the hearing request was received.

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

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

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

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

Sec. 46-11.5. Waiting period before becoming eligible to reapply.

A person whose application for a permit, license, or certificate of registration has been denied or whose current permit, license, or certificate of registration has been revoked or refused for renewal and such action has become final shall be required to wait a period of one year from the date the denial, revocation, or refusal became final before becoming eligible to reapply for a permit, license, or certificate of registration.

Sec. 46-11.6. Operation and inspection of wheelchair accessible vehicles for hire.

A permittee operating a wheelchair accessible vehicle pursuant to a valid permit may operate the wheelchair accessible vehicle beyond any applicable vehicle for hire age and mileage limitations prescribed in this chapter, provided the permittee submits the vehicle for inspection at a location authorized and identified by the director prior to the expiration of the permit, and the director determines that the wheelchair accessible vehicle for hire is in compliance with all applicable vehicle inspection provisions and any other conditions of operation prescribed by the director.

Sec. 46-12. Penalty.

Any person who fails or refuses to comply with the terms and provisions of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be

punished as provided by section 1-6 of this Code. Each violation shall constitute and be punishable as a separate offense.

Sec. 46-13. Rules and regulations.

The director is hereby authorized to adopt rules and regulations consistent with the intent and purposes of the provisions of this chapter. A copy of all rules and regulations shall be maintained in the director's office and the office of the city secretary for inspection by the public, and copies shall be made available for purchase consistent with the fees prescribed by law.

DIVISION 2. VEHICLE FOR HIRE DRIVER LICENSES

Sec. 46-14. Vehicle for hire driver's license required.

(a) It shall be unlawful for any person who does not hold a current and valid license issued pursuant to this division to operate a vehicle for hire on the streets of the city. A duly authorized licensee shall have a current and valid license in his possession at all times when operating a vehicle for hire and shall display the license to any peace officer or city inspector upon request.

(b) No permittee shall suffer or allow any vehicle for hire to be driven by anyone who does not possess a current and valid license issued pursuant to the terms of this division.

(c) The provisions of this division shall be cumulative of all other additional license requirements contained in this chapter applicable to the license for the operation of a specific vehicle for hire.

(d) All licenses issued pursuant to the provisions of this article and applicable to this chapter shall be specific to the vehicle for hire indicated in the license application.

Sec. 46-15. License application.

Applications for licenses or renewal of licenses shall be submitted to the director on a form promulgated by the director. The applicant shall provide the following information with each application, which shall be sworn before a notary public or conform to minimum state law requirements for unsworn declarations:

- (1) The applicant's full name, residence, places of residence for five years previous to moving to his present address, age, race, height, weight, color of eyes and hair, place of birth, and length of time he has resided in the city;
- (2) The specific type of vehicle for hire license for which the applicant is applying;

- (3) Whether the applicant is a citizen of the United States, and his record of employment for the five years prior to the date of the application, and social security number;
- (4) Whether the applicant has ever been convicted of a felony or misdemeanor;
- (5) Whether the applicant has previously been a licensee;
- (6) Whether the applicant has ever had a license issued pursuant to this chapter denied, revoked, or suspended;
- (7) Whether the applicant has ever had a state issued private passenger vehicle driver license or commercial vehicle driver license denied, revoked, or suspended;
- (8) The permittee for whom the applicant intends to work; and
- (9) Evidence of compliance with all qualifications established in this article; and
- (10) Any other information that may be reasonably requested by the director.

Sec. 46-15.1. Qualifications of license applicant.

(a) Each applicant for a license required by this chapter pursuant to this division must:

- (1) Have a valid state class A, B or C Texas driver license.
- (2) Be 18 years of age or older.
- (3) Be able to read and write the English language.
- (4) Provide the certificate from a duly licensed physician described in section 46-6(a) of this Code.
- (5) Have no criminal history that is disallowed under section 1-10 of this Code.
- (6) Provide evidence, in a form to be specified by the director, that he is either:
 - a A citizen of the United States of America by birth or naturalization; or
 - b An alien legally residing in the United States of America who has the legal right to engage in employment as a licensee.

- (7) Provide a driving record, in a form to be specified by the director, from Texas and from any state that has issued the applicant a driver license that was valid at any time within the three years immediately preceding the submission of the application.
- (8) Demonstrate the attendance and successful completion of a training course approved by the director.

(b) Additionally, applicants for a license to operate a taxicab must demonstrate by means of passing an examination, promulgated by the director, that the applicant possesses minimum essential knowledge of article II of this chapter as well as the city's streets.

Sec. 46-15.2. License issuance or denial.

(a) The director, upon consideration of the application and reports submitted under this division shall, subject to applicable requirements of this article, issue the license or deny the application. If the director denies the application, he shall notify the applicant in writing within five days after the date of the decision that the application has been denied and the grounds therefor.

(b) If the reason for the denial of a license is curable, the director shall allow the applicant, upon written request, to submit an amendment within the time allowed in section 46-15.5 of this Code to cure the defect in lieu of filing an appeal of the denial of the license. If the director denies the license again, the applicant shall still be entitled to file an appeal in the manner prescribed in section 46-15.5 of this Code.

(c) Additionally, the director may delay any decision on an application until final adjudication when the applicant is under indictment for or has charges pending for an offense listed in subsection (c) of section 1-10 of this Code pertaining to vehicle for hire driver licenses and shall promptly inform the applicant of the reason for the delay. Upon receiving notice of the reason for the delay, the applicant shall be entitled to an appeal of the director's delay in the same manner as provided in section 1-9 of this Code.

(d) If the criminal background check reveals that the applicant has been convicted of any applicable offense listed in subsection (a) of section 1-10 of this Code, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested.

Sec. 46-15.3. License term; renewal.

All licenses issued for the operation of vehicles for hire pursuant to this chapter shall be valid for two years from the date of issuance; provided however, licenses for school vehicles operated pursuant to article V of this chapter shall be valid for the period provided in section 46-291 of this Code. All licenses may be renewed by making application to the director upon forms provided by the director.

Sec. 46-15.4. License fee.

The fee for issuance of a license pursuant to this article is stated in the city fee schedule.

Sec. 46-15.5. Appeal from denial of license.

An applicant aggrieved with the decision of the director denying an application for a license under any provision of this article may appeal the decision to an independent hearing examiner designated by the director. Each appeal must be perfected by a letter addressed to the director and delivered to the director's office within 15 business days after the date that notice of the director's decision, addressed to the party with the right of appeal, is placed in the United States mail. The letter of appeal must state that an appeal from the decision of the director is desired. The director may grant the applicant a hearing only if the applicant's notice of appeal is in writing and timely given. The hearing shall be conducted in accordance with section 1-9 of this Code and applicable state laws if the denial was based in whole or in part upon section 1-10 of this Code. Subject to any further appeal authorized by state law, the hearing examiner's decision shall be final.

Sec. 46-15.6. State driver license status.

The issuance of a license is subject to the holder's maintenance of a current and valid Class A, B, or C Texas Driver License and the expiration, suspension, or revocation of the state license shall automatically render the license invalid until the applicant again holds a current and valid state license.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

Sec. 46-16. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings assigned to them in this section, except where the context clearly indicates a different meaning:

Daytime trip means a taxicab trip originating between the hours of 6:00 a.m. and 8:00 p.m.

Gross receipts means an amount of money equal to the total of all fares received and charged for the carriage of passengers by taxicabs permitted to a permittee, including all tip revenue and reservation and billing service fees, if any. Provided, however, special passenger charges for taxicab operations at city airports and toll road fees allowable under this article shall not be included in the calculation of gross receipts.

Hybrid-electric vehicle means a vehicle that is propelled by the use of two or more distinct power sources consisting of an internal combustion engine and an on-board rechargeable energy storage system.

License means a taxicab driver's license issued pursuant to division 2 of article I of this chapter~~article~~.

Licensee means any person in physical control of a taxicab who is the holder of a current and valid license ~~issued pursuant to division 3 of this article~~.

Nighttime trip means a taxicab trip originating ~~at any time other than~~ between the hours of 8:01 p.m. and 5:59 a.m. ~~6:00 a.m. and 8:00 p.m.~~ of the following day.

Permit means a current and valid permit issued by the director under this article for the operation of a taxicab.

Permittee means the person to whom a permit has been duly issued by the director. Any permittee who operates two or more taxicab companies under separate assumed names or different subsidiary firms or by any other means shall nevertheless be regarded as one and the same permittee for permit applications, disciplinary actions, and all other purposes relating to the administration of this article.

Stool light means an instrument or an accessory that is permanently attached to the top of a taxicab at a midpoint between the front doors and not more than 30 inches to the rear of the topmost part of the windshield.

Street means any public street, road, boulevard, alley, lane, highway, sidewalk, park roadway, railroad station, ship landing, ferry landing roadway, viaduct or other place under control of the city or other public authority and established by it for the use of vehicles not otherwise controlled by law or ordinance. It ~~shall also mean~~ any vehicular road, driveway, or area outside of and adjacent to, or in any railroad station, ferry landing, or bus station owned by the city or other public authority that is used regularly ~~or may be so used~~ by taxicabs for pickup and discharge of passengers, which places shall hereafter remain open to and be used by all duly permitted taxicabs without charge, except as authorized by city council, and without discrimination as to the identity of the permittee. The properties constituting the William P. Hobby Airport (HOU), the George Bush Intercontinental Airport/Houston (IAH), and the Ellington Airport (EFD) are not designated as streets under this definition.

Taxicab means every automobile or motor-propelled vehicle, whether the vehicle is identified or not as a taxicab as set forth herein, used for the transportation of passengers for hire ~~whether the vehicle is identified or not as a taxicab as set forth herein~~ over the public streets of the city, whether or not the

operation extends beyond the city limits. Provided, the term *taxicab* shall not apply to limousines, school ~~vehicles~~buses, emergency vehicles, jitneys, ~~or sightseeing or charter vehicles,~~ low-speed shuttles, or transportation network vehicles that operate under a permit, ~~franchise, or license~~ issued by the city or any other governmental regulatory authority, and, provided further, the term shall not apply to limousines that are chartered, hired or provided in connection with funeral services or any vehicles operating under a contract with the city.

Taxicab cost index (TCI) means a weighted combination of selected consumer price indexes and employment statistics as published by the United States Department of Labor used to measure the change in the costs of operating a taxicab.

Taximeter means a mechanical and/or electrical instrument that records miles or distances traveled or time consumed, or both, during the period of engagement of taxicab service and is so constructed as to visibly record the cumulative charges to the person engaging the service.

Sec. 46-17. Authorized operators.

No taxicab for which a permit has been issued under this article shall be operated by anyone except the permittee or an employee of the permittee or other person who may be operating the vehicle under a written agreement specifically incorporating therein any rules, regulations, and conditions as may be reasonably required by the director to ensure compliance with applicable laws and regulations. The permittee shall be responsible for anyone operating under his permit whether as an employee or contractor. Any person driving or operating a taxicab upon the streets or other public property of the city is presumed to be an employee of the taxicab's permittee or to have entered into a written agreement with the taxicab's permittee.

Sec. 46-18. General prerequisites to putting vehicle into service.

(a) Before any permittee may put a taxicab into service or replace a taxicab, he shall submit, for the director's approval, the vehicle, the certificate of title showing the current true ownership of the vehicle, his public liability insurance policy, insurance endorsement or evidence of self-insurance and, in the case of a leased vehicle, the written lease contract.

(b) The director shall not authorize a vehicle to initially be placed into service unless it is equipped with an air conditioning system that was factory-installed by the vehicle manufacturer and has sufficient interior passenger space to qualify in the United States Environmental Protection Agency's annual fuel economy guide as a mid-size car, a large car, a mid-size station wagon, a large station wagon, a sport utility vehicle, or a van, passenger type, provided that the director may also allow vehicles classified for purposes of the fuel economy guide as special passenger vehicles if the vehicle has passenger seating and space accommodations at least equivalent to those of a vehicle

rated as a mid-size car. To the extent that the fuel economy guide has not yet been published for the model year of the vehicle at the time that a vehicle is presented for placement into initial service, then the director may utilize the previous year's guide entry for the same or most equivalent make and model of vehicle.

In addition to the foregoing, any ~~taxicab initially~~ vehicle to be placed into service or operated pursuant to any permit distribution occurring on or after _____¹ January 1, 2008, must meet one or more of the following criteria:

- (1) Be powered by a 4-cylinder engine;
- (2) Be a hybrid-electric vehicle;
- (3) Be a wheelchair accessible vehicle, either lift- or ramp-equipped; or
- (4) Be a vehicle that meets a minimum combined fuel economy rating of 20 miles per gallon based on the most recently published United States Environmental Protection Agency's annual fuel economy guide for the year in which the vehicle is presented for placement into initial taxicab service. To the extent that the fuel economy guide has not yet been published for the model year of the vehicle at the time that a vehicle is presented for placement into initial service, the director may utilize the most recent fuel economy guide entry for the same or most equivalent make and model of vehicle.

Sec. 46-19. Reserved.

Sec. 46-20. Age and mechanical condition of taxicabs.

(a) Except as provided in subsection (b) of this section, a No licensee or permittee shall not drive or cause to be driven upon the streets of the city any taxicab vehicle that is more than six years old, provided that no vehicle may be placed in service for the first time as a taxicab if it has been driven more than 100,000 actual miles, which shall be determined from the odometer ~~and from odometer~~ and title records. For purposes of this requirement, a taxicab will be considered to be six years old on April 30th of the sixth year following the manufacturer's model year of the vehicle, regardless of the purchase date or the date it was originally placed into service.

(b) A licensee or permittee may drive or cause to be driven a taxicab for an additional one-year period beyond the age limitation prescribed in subsection (a) of this section provided the licensee or permittee submits the taxicab for inspection at a location authorized and identified by the director prior to the expiration of the permit and the director determines that the taxicab is in compliance with the provisions of section 46-37 of this Code and any other conditions of operation prescribed by the director.

¹ The City Secretary shall insert the date of passage of this Ordinance.

Sec. 46-21. Identification of vehicles generally.

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

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

Sec. 46-22. Vehicle color scheme.

(a) ~~AN~~o permittee or licensee shall not drive or cause to be driven any taxicab in the city until the permittee has filed with the director, for approval, the color scheme that he proposes to use under his ownership or radio service. In approving or disapproving the color scheme submitted, the director shall consider:

- (1) The color scheme presently in use by the permittee, if any;
- (2) The color schemes of other permittees; and
- (3) Which permittee first used or requested approval of the color scheme.

~~If the director finds that the permittee is entitled to the use of the requested color scheme because of first or prior use and that it does not deceptively resemble the approved color scheme of another permittee, he shall approve its use by the permittee.~~

(b) If the director approves the color scheme ~~is approved~~, the permittee shall, within 15 days, deliver to the director a color photograph, of a size and kind to be approved by the director, of a taxicab of his color scheme, and he shall not change the color scheme without approval of the director.

Sec. 46-23. Certification decals.

At the time a taxicab permit is issued or renewed under this article, the director shall issue one certification decal to the permittee for the taxicab covered by the permit. The certification decal shall be attached to the taxicab for which it is issued, at the place on the taxicab ~~as shall be~~ designated by the director. It shall further be unlawful for any person to drive a taxicab without the certification decal being so attached.

Sec. 46-24. Stool light.

No permittee or licensee shall operate or cause to be operated any taxicab within the city unless it is equipped with a stool light that is illuminated when the taxicab is vacant and available for hire. The stool light shall be controlled by the taximeter. When the taximeter is in the recording position, the stool light shall be off, and when the taximeter is not recording, the stool light shall be on and shall illuminate a "vacant" sign contained thereon. Additionally, permittees and licensees shall be authorized to display and illuminate either the taxicab permittee name or permit number on the stool light when the taximeter is not recording.

Sec. 46-25. Passenger's right of selection.

Every person shall be allowed to select a taxicab of his choice at any place in the city.

Sec. 46-26. Taxicabs at GGeorge Bbush Intercontinental Airport/Houston.

(a) The provisions of this section shall apply to all taxicab service at any place upon the grounds of George Bush Intercontinental Airport/Houston (IAH).

(b) The director of aviation shall establish one or more locations at or near the various terminal buildings at IAH as taxicab arrival and departure loading zones for the loading and discharge of passengers and baggage by taxicabs. It shall be unlawful for any licensee to load or discharge passengers or baggage at any location within the airline terminal areas of IAH other than in a zone so established.

(c) The director of aviation shall establish taxicab standing lines to service the departure loading zones designated under subsection (b) above. It shall be unlawful for any licensee to cause his vehicle to stand upon any area of IAH other than in a designated standing line. It is a defense to prosecution under this subsection that the operator has lawfully stopped his vehicle in order to comply with a traffic control device or that the operator is actually and lawfully engaged in the loading or unloading of passengers or baggage.

(d) Except where the passenger may request the service of a particular taxicab, departing passengers at IAH terminals will be assigned to taxicabs waiting in the standing lines by starters who have been designated by the director of aviation to operate the various departure zones and standing lines. Taxicabs will be assigned from the standing lines on a first-in-line-first-to-depart basis, provided that the director of aviation shall administratively provide by rule for the priority reassignment of any taxicab operating from a standing line that receives a short trip. For purposes of this provision, *a short trip* means a trip within an area immediately adjacent to IAH as defined on a map promulgated for that purpose by the director of aviation.

(e) A licensee carrying a passenger or passengers from IAH shall pay to the city the airport use fee established from time to time by division 3 of article II of chapter 9 of this Code. ~~The licensee shall deposit the fee in the manner prescribed by the director of aviation, and the fee may be added by the licensee to metered fares and flat rate fares for trips originating from IAH when the average price per gallon of regular unleaded gasoline exceeds \$2.00, provided that the amount of the fee is posted on the taxicab's rate card.~~ Where passengers are being carried to two or more destinations, the airport use fee shall be prorated among them on a per destination basis. ~~It shall be unlawful for any licensee to depart from the IAH with a passenger without having deposited the required fee.~~

Sec. 46-27. Operation at William P. Hobby Airport.

(a) The director of the department of aviation is hereby authorized to designate one or more locations on the airport adjacent to the airline terminal building at the William P. Hobby Airport (HOU) as standing and loading zones for the loading and discharge of passengers and baggage by taxicabs. It shall be unlawful for a licensee to load or discharge passengers or baggage at any other location within the airline terminal building area of the airport.

(b) A licensee carrying a passenger or passengers from the airline terminal building at the HOU shall pay to the city the airport use fee established from time to time by division 3 of article II of chapter 9 of this Code. ~~The licensee shall deposit the fee in the manner prescribed by the director of aviation, and the fee may be added by the licensee to metered fares and flat rate fares for trips originating from HOU when the average price per gallon of regular unleaded gasoline exceeds \$2.00, provided that the amount of the fee is posted on the taxicab's rate card.~~ Where passengers are being carried to two or more destinations, the airport use fee shall be prorated among them on a per destination basis. ~~It shall be unlawful for any licensee to depart from the HOU with a passenger without having deposited the required fee.~~

Sec. 46-28. Reserved.

Sec. 46-29. Carrying additional passengers.

Any passenger who engages the services of a taxicab shall have the exclusive right to the passenger compartment of the taxicab, ~~and~~ Except as provided in item (3) of subsection 46-30(a) of this Code, it shall be unlawful for a licensee to carry additional passengers unless specific permission is obtained from the passenger who originally engaged the taxicab.

Sec. 46-30. Taximeter.

(a) ~~AN~~ licensee or permittee shall not drive or cause or suffer or allow to be driven a taxicab in the city, unless the taxicab is equipped with a properly functioning taximeter. ~~Except for trips entirely within the central business district for which the alternate flat rate established by section 46-31(a)(9) of this Code is being charged, no~~ A licensee shall not carry a passenger, whether for hire or not, unless the taximeter is in the recording position. Provided, however, it shall be an affirmative defense to prosecution under this subsection that the only passenger in the taxicab at the time the taximeter was not in recording position was a person riding for training purposes only, and:

- (1) The passenger had a valid license issued by the city at the time he was ~~se~~ riding as a passenger;
- (2) The passenger had not driven a taxicab ~~for 30 days or more~~ within the city for 30 days or more prior to the date the defendant was charged for violation of this subsection; and
- (3) At the time the person was riding as a passenger, there was a sign indicating that a passenger was riding for purposes of training as a licensee. The sign must be located so that it would be visible to any person who might ride in the vehicle as a passenger for hire.

(b) Except for any deposit or scheduling fee required for taxicab vehicle for hire services provided as pre-arranged transportation services or as otherwise provided in this article, all charges and collections for hire shall be based upon the taximeter reading. The dial showing the fare shall be in full view and readily visible and readable by the passenger or passengers at all times taxi service is being rendered.

(c) The taximeter shall be inspected and sealed by the director ~~when~~ at the time the taxicab is initially placed into service, during vehicle inspections conducted under this article, and before the taxicab is placed back into service following any repair, modification, or adjustment to the taximeter.

(d) ~~AN~~ permittee shall not drive or cause or suffer or allow to be driven and ~~an~~ licensee shall not drive any taxicab on which the seal installed by the director has been removed, broken or tampered with. ~~AN~~ permittee shall not drive or cause or suffer or allow to be driven and ~~an~~ licensee shall not drive any taxicab on which any

modification has been made to the taximeter or to any mechanical or electrical parts of the taxicab activating the taximeter that causes rates other than those authorized in this division to be recorded and shown on the taximeter.

(e) The director shall promulgate regulations authorizing the temporary use of a permittee-installed substitute seal in lieu of a city-installed seal if a taximeter is installed repaired, modified, or adjusted during the period commencing at noon on a Friday or on the day preceding a city-observed holiday and extending until 8:00 a.m. on the next day that is not a Saturday, Sunday, or city-observed holiday. Use of a temporary seal during the aforesaid period in a manner authorized by the regulations is an affirmative defense to prosecution under this section, provided that the taximeter is functioning in accordance with all requirements of this division.

Sec. 46-31. Rates prescribed.

(a) All taxicab permittees and licensees shall comply with and abide by the rates established in this section:

- (1) *Daytime metered travel.* For daytime trips, the metered travel fee shall be \$2.75 for the first 1/11 of a mile or less plus \$0.20 for each additional 1/11 of a mile or less.
- (2) *Nighttime metered travel.* For nighttime trips, the metered travel fee shall be \$3.75 for the first 1/11 of a mile or less plus \$0.20 for each additional 1/11 of a mile or less.
- (3) *IAH flat rates.* Alternative flat rates shall be imposed for trips between George Bush Intercontinental Airport/Houston (IAH) and its geographic zones I through X, as follows:

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

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

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

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

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

- (5) *Waiting time.* An amount not to exceed \$24.00 per hour may be charged for waiting time, provided the clock on the taximeter is set and regulated at a rate not to exceed \$24.00 per hour.
- (6) *Hand luggage.* No charge will be made for hand luggage.
- (7) *Reservation and billing service fee:*

- a. A reservation and billing service fee may be added to the total trip charges authorized in this section, provided:
 - 1. The trip originates with an advance reservation; and
 - 2. At the request of the account holder or his authorized agent the fare and other charges are billed on account by the permittee, rather than being paid at the end of the trip.

The reservation and billing service fee shall not exceed ten percent of the total trip charges imposed, including the tip, if any.

- b. Notwithstanding the foregoing, this item (7) shall not be construed to authorize the operation of a taxicab service in such manner as to constitute a chauffeured limousine service. In the event of conflict, the provisions of article IV of this chapter shall prevail.

- (8) *Toll road fee.* In addition to the fees prescribed in this section, the permittees and licensees may impose a toll road fee in an amount exactly equal to any fees imposed by the Harris County Toll Road Authority for use of its facilities during the trip, provided that the imposition of the fee is noted on the posted rate card, and further provided that the passenger(s) are notified of the fee before the taxicab enters the toll road. Where passengers are being carried to two or more destinations, the toll road fees shall be prorated among them, per destination.
- (9) *Alternate central business district flat rate.* An alternate flat rate of \$6.00 shall be imposed for trips entirely within the central business district.
- (10) *Annual TCI review.* On or before December 31st of each year, the director shall conduct a review of the TCI, which shall be used to determine whether taxicab rates need to be adjusted. The TCI shall be weighted as indicated in Table 46-1 below:

Table 46-1 Taxi Cost Index Factors and Weighting		
Fuel	22.0%	CPI—Gasoline (All Types)—Houston-Galveston-Brazoria, TX
Repairs and Maintenance	7.0%	CPI—Motor Vehicle Maintenance—US City Average
Parts and Equipment	7.0%	CPI—Motor Vehicle Parts and Equipment—US City Average
Insurance	6.0%	CPI—Motor Vehicle Insurance—US City Average

Depreciation/Return on Investment	4.0%	CPI—Used Cars and Trucks—City Size A
Driver/Operator Returns—Part I	25.0%	Average Hourly Earnings—Transit and Ground Transportation—National
Driver/Operator Returns—Part II	25.0%	CPI—All Items—Houston-Galveston-Brazoria, TX
Fees and Miscellaneous	4.0%	CPI—All Items—Houston-Galveston-Brazoria, TX
Total	100.0%	

(11) *Requested taxicab rate review.* A review of the taxicab rates may also be initiated by taxicab owners and operators by making a request in writing to the director. Upon receipt of a request for a rate review, the director shall prepare an estimate of the administrative cost of the rate review. If the taxicab owner or operator determines to proceed with the rate review, the owner or operator shall submit a cashier's check to the director for the full amount determined by the director. The rate review shall be conducted in accordance with the procedures established for that purpose by the director. Without limitation, the director may select a representative group of taxicab owners and operators and request that they provide verified financial data and vehicle-operating data regarding their operating costs and return on investment for use as a basis in conducting the review. Following receipt and review of the information, the director shall make a recommendation to city council whether a rate adjustment is justified, and, if so, the amount of the recommended rate adjustment. If a rate adjustment is recommended to city council, then city council shall conduct a hearing before adopting any adjustment to the taxicab rate.

(12) *Annual automatic rate adjustment.* Except for years in which a rate adjustment adopted by city council under item (11) of this subsection will take effect, the director shall make an automatic rate adjustment if:

- a. The TCI has changed by more than five percent since the last rate adjustment; or
- b. At least three years have elapsed since the effective date of the most recent ~~The last rate adjustment was at least three years ago;~~

provided however, an increase in the TCI resulting in a rate adjustment of ten percent or more of the current taxicab rates shall require the approval of city council.

The TCI shall be computed annually and shall be based upon the not seasonally adjusted data for the month of October, rounded to the nearest

\$0.05. Automatic adjustments to the rates shall be calculated by applying the percentage change in the TCI to the current six mile fare. The new rates shall be effective February 1 of the following year. Written notice of the automatically adjusted rates shall be provided by regular mail to taxi permittees not later than the 30th day before the rates go into effect.

This item does not apply to the flat rate specified in item (9).

(b) The director shall establish a taxicab passenger capacity rating (exclusive of children in arms), which will constitute the maximum number of passengers that may be carried simultaneously.

(c) In the event two or more taxicab passengers are going to the same destination, the licensee shall collect only one fare as recorded on the taximeter. If the passengers are going to different destinations, the licensee shall clear his taximeter at the first destination and charge the first passenger the amount recorded on the taximeter, and then proceed to the next destination as though it were a completely new trip. Other destinations shall be treated likewise.

(d) Where any permittee has contracted with any department, agency or subdivision of the state, the United States or any foreign government or any nonprofit charitable organization for the transportation of passengers for the entity on a regular basis within the corporate limits of the city, the permittee is authorized, in lieu of the fares prescribed in subsection (a) above, to make other charges as are agreed to in writing by the contracting parties and filed with the director, prior to the transportation of passengers under the contract. A permittee or licensee transporting contract passengers under this subsection must fully comply with all other applicable provisions of this article.

(e) *Senior citizens' discount:*

(1) *Rate; restrictions.* Any taxicab passenger 60 years old or older who provides to the licensee proof of age as specified in this subsection at the time the fare is collected shall be charged a reduced fare equal to 90 percent of the fee otherwise applicable as set out in items (a)(1) through (a)(5) of this section; provided, however, the reduced fare set out in this subsection shall not be applicable any of in the following situations:

- a. In the event the passenger has ridden in the taxicab to the same destination with another passenger who is not an attendant but is 13 years of age or older but less than 60 years of age;
- b. The passenger is a person with disabilities who is riding in the taxicab pursuant to the terms of a contract between the taxicab permittee and the Metropolitan Transit Authority; or

- c. The fare is being charged to any account other than the passenger's personal account.

For purposes of this item, an *attendant* is a person who is accompanying a passenger because the passenger is physically or mentally unable to travel alone.

- (2) *Proof of age.* To provide proof of age for the purposes of this subsection, the taxicab passenger must allow the licensee to examine one of the following identification documents that has been issued to the passenger and that has a picture of the passenger thereon:
 - a. A driver license or identification card issued by a state of the United States;
 - b. A military identification card;
 - c. A passport; or
 - d. An alien registration receipt card (Form I-551 or I-151) or border crossing card issued by the United States Immigration Service.
- (3) *Posting of notice in taxicab.* ~~AN~~ person shall not operate a taxicab unless a notice regarding the discount set out in this subsection is posted in the passenger area of the taxicab. The director shall specify the information to be set out on the notice, the size of the print, the colors, and the location where the notice shall be placed.

Sec. 46-32. Posting of license and other information.

(a) Each permitted taxicab shall be equipped with a license and rate card holder approved by the director. The holder shall be mounted on the taximeter or dashboard of the taxicab in a conspicuous location where the contents thereof may be seen by the passengers. It shall be the duty of the permittee and licensee to place in the holder a the city-issued license containing a picture of the licensee, the licensee's name and description, and a rate card showing the name of the permittee and the approved taxicab rates specified in section 46-31 of this Code. The size and contents of the license and the rate cards shall be approved by the director.

(b) It shall be the duty of the permittee and licensee of each taxicab to ensure that the taxicab has cards posted showing the rates for travel to and from IAH and to and from HOU for each zone as specified in section 46-31 of this Code and a map depicting the zones. One card shall be posted on the dashboard in a location conspicuous to a passenger in the front seat and the other card shall be posted on the back of the front seat or at the top of the inside of either rear door window so that the contents thereof can be seen by the other passengers riding in the cab. The director

shall specify the size of print, the colors, and the information to be provided on each card as he finds necessary so that the information may be read by passengers.

(c) It shall be the duty of each permittee and licensee to post a card with the telephone numbers of the director and the permittee for complaint purposes regarding taxicab services or charges. This card shall be mounted adjacent to the rate cards required by this section and shall instruct the passenger that if he wishes to file a complaint, he should obtain the taxicab number as posted on the taxicab, date, time, destination, and fare charged. The director shall approve the size of the print, the colors, and the information to be provided on each card as he finds necessary so that the information may be easily read by passengers.

(d) It shall be the duty of each permittee and licensee to post a card that indicates whether smoking is permitted or prohibited in the taxicab. The director shall approve the size of the print, the colors, and the information to be provided on each card as he finds necessary so that the information may be easily read by passengers.

Sec. 46-33. Payment method.

(a) A licensee or permittee shall not drive or cause or suffer or allow to be driven a taxicab in the city, unless it is equipped with a properly functioning credit card payment device integrated with a global positioning satellite system. Additionally, it shall be unlawful for any permittee or licensee to refuse to accept a passenger's payment of posted rates by credit card. For trips entirely within the central business district for which the alternate flat rate established by section 46-31(a)(9) of this Code is being charged, it is an affirmative defense to prosecution under this subsection that the licensee was operating a taxicab that was marked with signage, as prescribed by the director, that indicates "cash only" rides.

(b) The credit card payment device integrated with a global positioning satellite system shall be inspected and approved by the director at the time the taxicab is initially placed into service, during vehicle inspections conducted under this article, and before the taxicab is placed back into service following any repair, modification, or adjustment to the taximeter.

Sec. 46-34. Receipt for payment of fare.

No licensee of any taxicab, upon receiving full payment for a fare as authorized by this article, shall refuse to give a receipt upon the request of any passenger making the payment. A receipt provided to the passenger via the passenger's e-mail address shall be sufficient for purposes of providing a receipt for payment upon the request of any passenger. Additionally, the permittee of the taxicab shall make available to each licensee a receipt book or other electronic instrument capable of creating a payment record required by this section to be used for this purpose.

Sec. 46-35. Required operation; taking vehicles out of service generally.

(a) Permittees shall pick up or accept delivery of any permit(s) initially granted under division 2 of this article and place the taxicab(s) into service as follows:

- (1) The permittee shall pick up or accept delivery of the permit(s) and place the taxicab(s) into service within 180 days subsequent to the date of the granting of the permits; and
- (2) If any permit is not obtained or any taxicab is not placed into service as provided herein, the permit shall be automatically revoked, and the director shall cause the permittee to surrender any certification decals or other permit indicia that have been issued.

(b) Permittees shall operate or cause their taxicabs to be operated whenever public convenience requires that the taxicabs be in operation. The director may order any or all permittees to put into operation any taxicab not then in operation whenever public convenience requires that all permitted taxicabs be in operation.

(c) Permittees may take out of service those taxicabs that require repairs or that need to be taken out of service for any other reason, with the exception that permittees/operators having ten or more taxicab permits must have not less than 60 percent of their taxicabs in operable condition and in service at all times. Permittees/Operators having fewer than ten taxicab permits must have not less than 50 percent of their taxicabs in operable condition at all times. Permittees shall furnish the director with quarterly reports demonstrating the percentage of their taxicabs in operable condition and in service at all times.

(d) The director may, upon the request of a permittee and the surrender of one or more taxicab permits to the director, hold surrendered permits for the permittee for a period not to exceed one year without revoking the permits for nonuse. The director may hold permits for a permittee as herein provided when the circumstances causing their non-utilization are beyond the control of the permittee and when the holding of the permit(s) by the director would not adversely affect public convenience. Only permittees who hold ten permits or fewer may use illness as a reason to request the holding of permits. The permittee must provide to the director verifiable proof/documentation of the circumstances, and the circumstances must be specifically related to the permittee's illness. The director may hold permits as herein provided once in a five-year period commencing on the date the surrender is accepted by the director. Once any of a permittee's permits are surrendered to the director for holding, no other permits held by the same permittee may be surrendered for holding during the five-year period. Permits surrendered by the permittee must be redeemed by the end of the surrender period by payment of all fees due, plus interest. The applicable interest rate shall be based on the rate of interest for variable rate demand obligations as fixed by the city's financial underwriting firm and shall be the average of that rate current as of the date of acceptance of surrender of the permits by the director and that rate current

as of the date of redemption of the permits. Permits not redeemed within 30 days following the surrender period will automatically be revoked. A permittee who has paid the requisite fee is not entitled to a refund of the fee under the provisions of section 46-68(b) of this Code.

Sec. 46-36. Removal of identification marks when vehicle retired from service.

No permittee shall dispose of a taxicab that is being retired from service until all marks of taxicab identification have been removed therefrom.

Sec. 46-37. Inspection by city—Generally.

(a) The director shall cause each taxicab for which a permit has been issued to be inspected at the time that it is initially placed into service and thereafter at least once each year. The inspection shall be made to determine that the taxicab is in a reasonably good state of repair, clean, and equipped and being operated in compliance with all requirements of this article. The inspection shall be made at a place designated by the director. The director shall create a permanent cause the record of all the inspections, which shall be maintained ~~to be reduced to writing and a permanent record made thereof.~~ ~~The record shall be kept by the director~~ for a period of at least two years.

(b) If the inspection reveals that a vehicle is not in a reasonably good operating condition, from the standpoint of the safety, health, and comfort of passengers, the director shall order the taxicab ~~shall be ordered~~ out of service until remedial repairs and corrections have been made. When the repairs and corrections have been made, the vehicle shall be reinspected to determine whether or not proper repairs and corrections have been made, and in no case shall the taxicab be permitted to resume its operation until the repairs and corrections have been made. It shall be unlawful for a permittee to utilize any taxicab that has been ordered out of service until the vehicle has been reinspected and the director authorizes resumption of its use.

(c) Inspections shall include, but not be limited to, the following items: vehicle identification number; taxicab number; date of purchase; foot brakes; ~~parking emergency~~ brake; head lamps; tail lamps; license plate lights; stool light; dome light; horn; windshield wipers; heating, ventilating, and air conditioning systems; current state inspection sticker; rearview mirror; all glasses; cleanliness; safety; condition of paint; color scheme; certification decals; taximeter seals and readings; credit card payment device integrated with global positioning satellite system; rate card; signs; fumes; state license plates and registration sticker; speedometer readings; mileage; steering; tires; muffler and tail pipe; accuracy of taximeter; condition of the body of the vehicle and fenders.

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

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

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

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

Secs. 46-41, 46-42. Reserved.

Sec. 46-43. ~~Passenger comfort; courtesy.~~

~~_____ (a) It shall be unlawful for the permittee or licensee to suffer, allow or cause the taxicab to be in service at any time during which the vehicle's heating, ventilating, and air conditioning system is not in good repair and capable of functioning within the tolerances of the vehicle manufacturer's specifications.~~

~~_____ (b) It shall be the duty of the licensee to ensure that the vehicle is operated for the comfort of the passengers and that the vehicle's heating, ventilating, and air conditioning system is in operation at all times while passenger(s) are present in the vehicle and is functioning in accordance with the passenger's reasonable request for heating, ventilating, or cooling, unless the passenger(s) specifically request that the system be turned off.~~

~~_____ (c) No licensee while operating a taxicab with passengers present shall:~~

- ~~(1) Use abusive, indecent, profane or vulgar language that by its very utterance tends to incite an immediate breach of the peace;~~
- ~~(2) Make any offensive gesture or display that by its very nature tends to incite an immediate breach of the peace;~~
- ~~(3) Create by chemical means any noxious and unreasonable odor;~~
- ~~(4) Threaten another person in an obviously offensive manner;~~

~~(5) — Fight with another person; or~~

~~(6) — Engage in any other conduct that is a violation of law.~~

~~Sec. 46-44. — Taxicab condition.~~

~~— It shall be unlawful for the permittee or licensee of any taxicab to allow or cause the taxicab to be in service at any time that the cleanliness and condition of the taxicab do not meet any one or more of the following standards:~~

~~(1) — The passenger compartment of the vehicle is free of litter and debris.~~

~~(2) — The passenger compartment of the vehicle is free of any personal items of the licensee or other objects that would restrict the seating comfort of the passengers.~~

~~(3) — The vehicle is free of noxious or offensive odors.~~

~~(4) — The carpet, seating surfaces and head liner have no tears, exposed springs or underparts and are free of any spots or stains that are removable with a reasonable cleaning effort.~~

~~(5) — The exterior of the vehicle is free from debris and dirt, commensurate with ambient weather conditions and free of any paint or body work damage, excepting "door dings," minor scratches, and similar defects that are not significantly visible.~~

~~(6) — The vehicle has no broken windows or windows with cracks, except for cracks in places that do not interfere with licensee's vision.~~

~~(7) — The taxicab has hubcaps or wheel covers on all four wheels if it was so equipped by the manufacturer.~~

~~Secs. 46-45—46-60. Reserved.~~

DIVISION 2. VEHICLE PERMIT

Sec. 46-61. Definitions.

As used in this division, the following words and terms shall have the meanings assigned to them in this section:

Airport taxicab usage adjustment factor means the percentage increase or decrease between the mean annual airport taxicab usage and the base year airport taxicab usage.

Available permit number means the number of permits made available for distribution, if any, as computed for a permit computation year pursuant to section 46-63 of this Code.

Base year airport taxicab usage means either (1) the mean annual airport taxicab usage for the last preceding permit computation year in which the issuance of permits was considered, or (2) the mean annual airport taxicab usage calculated for any preceding permit computation year in which the issuance of permits was considered, wherever is greater. Notwithstanding the foregoing, the base year airport taxicab usage for permit computation year 2011 shall be 600,270.

Base year population means the mean annual population of the city for the last preceding permit computation year in which the issuance of permits was considered. Notwithstanding the foregoing, the base year population for permit computation year 2011 shall be 2,076,189.

Mean annual airport taxicab usage means the combined number of taxicab passenger trip starts commenced at George Bush Intercontinental Airport/Houston and William P. Hobby Airport during the three calendar years preceding each permit computation year as counted and compiled by the department of aviation and provided to the director. By example, the formula for determining the mean annual airport taxicab usage for permit computation year 2011 is expressed as follows:

$$\text{Mean annual airport taxicab usage} = \frac{(\text{airport taxicab usage 2008} + \text{airport taxicab usage 2009} + \text{airport taxicab usage 2010})}{3}$$

Mean annual population means the mathematical average of the population for the city published by the United States Census Bureau as of June 30 for the three years preceding the permit computation year, whether a decennial census population or an interim estimated population. The published Census Bureau data shall be utilized without adjustment unless the planning and development director advises the director that the Census Bureau has not included territory added to the city by annexation, in which case the director of planning and development shall provide to the director an adjusted population to include, based upon Census Bureau data, the population in the annexed territory. By example, the formula for determining the mean annual population for permit computation year 2011 is expressed as follows:

$$\text{Mean annual population} = \frac{(\text{Population estimate 2008} + \text{population estimate 2009} + \text{population estimate 2010})}{3}$$

New entrant applicant means a permit applicant who is not a permittee or principal of a permittee.

Operator means the person who is or will be principally in charge of the day-to-day operations of a permittee or applicant for a permit.

Other applicant means any permit applicant who is not a new entrant applicant.

Permit computation year means a year in which the issuance of taxicab permits shall be considered. The first permit computation year shall be 2007. The next permit computation year shall be 2011, and subsequent permit computation years shall occur at three year intervals (2014, 2017, 2020, etc.).

Permit computation year base permit number means the total number of city taxicab permits then authorized on June 1 of a permit computation year.

Permit computation year base permittee number means the number of permittees that exists as of June 1 of a permit computation year.

Permit distribution year means the calendar year immediately following the permit computation year. The first permit distribution year shall be 2008. The next permit distribution year shall be 2012, and subsequent permit distribution years shall occur at three year intervals (2015, 2018, 2021, etc.).

Population adjustment factor means the percentage increase or decrease between the mean annual population and the base year population.

Principal means the operator and also includes in the case of a proprietorship the proprietor and proprietor's spouse, in the case of a partnership each partner, and in the case of a corporation each corporate officer or director; ~~each director and each other person who holds ten percent or more of the outstanding shares.~~ For any other form of entity, the term shall include the equivalent persons as determined by the director.

Taxicab permit adjustment factor means the mean average of the population adjustment factor and the airport taxicab usage adjustment factor.

Sec. 46-62. Required.

(a) It shall be unlawful for any person to operate or drive or cause to be operated or driven any taxicab upon and over the streets of the city unless a current permit has been issued for the taxicab by the director in accordance with this article.

(b) It is an affirmative defense to prosecution under this section that the taxicab is not being operated for the purpose of serving any passenger in exchange for

consideration unless the trip originated in a jurisdiction outside the city in which the taxicab is operated in compliance with all applicable laws. The provisions of this section shall not be construed to authorize a taxicab from another jurisdiction to originate any passenger service trip within the city.

Sec. 46-63. Computation of permits to be distributed, if any.

(a) On or before September 1 of each permit computation year, the director shall compute the taxicab permit adjustment factor, permit computation year base permit number and permit computation year base permittee number and cause the data to be published one time in a newspaper of general circulation and to be mailed to each permittee and licensee at the permittees' and licensees' last known addresses. The director shall provide a written explanation of the computations to any person who requests the data.

(b) Any interested person may appeal the director's computations as published under subsection (a) by filing a notice of appeal in the director's office on or before September 15 of the permit computation year. The appeal notice shall specify in detail the nature of any errors that are alleged in the director's computations. In the event of an appeal, the director shall cause an appeal hearing to be conducted by a hearing examiner in which all appellants may jointly participate. The hearing examiner's decision shall be rendered on or before October 15 and shall be final.

(c) Following the computations under subsection (a) and resolution of any appeals therefrom under subsection (b), a mathematical determination shall be made whether any taxicab permits are to be issued. If the taxicab permit adjustment factor is a negative percentage or is zero, then no permits shall be issued. If the taxicab permit adjustment factor is a positive number, then the taxicab permit adjustment factor shall be multiplied by the permit computation year base permit number, and the result is the available permit number.

Sec. 46-64. Distribution of available permits.

(a) For purposes of distribution, the available permit number shall be divided into two categories:

- (1) A number of permits equal to five percent of the available permits, rounded to the nearest whole number (with a fraction of $\frac{1}{2}$ rounded up), shall be reserved for new entrant applicants.
- (2) Based upon the computation provided in item (1) above, the balance of the available permit number shall be reserved for other applicants.

(b) On or before November 1 of each permit computation year, the director shall cause the computation of the available permit number to be published one time in a newspaper of general circulation.

(c) If permits are to be issued, then the publication shall also include the reservation numbers computed under subsection (a), the deadline for filing of applications, and an explanation of how to obtain filing information. If during a permit computation year, the director determines that the number of wheelchair accessible taxicabs is less than two percent of the entire taxicab fleet, the director shall cause the appropriate number of available permits listed in items (1) and (2) of subsection (a) to be designated for wheelchair accessible vehicles. Additionally, the director shall mail the information regarding permits available and filing procedures to all permittees and licensees at their last known addresses.

Sec. 46-65. Applications.

(a) Applications for permits may be filed on or before December 1 of each permit computation year in which permits are determined to be available pursuant to section 46-63 of this Code. Each applicant shall utilize forms promulgated by the director and shall submit any information requested in accordance with instructions that shall be promulgated by the director. Without limitation of other information that the director may require in order to determine compliance with this Code and other applicable laws, the applicant shall set forth and provide the following information, which shall be sworn before a notary public or conform to minimum state law requirements for unsworn declarations:

- (1) The applicant's name, mailing address (and street address if different), and telephone number.
- (2) Evidence of the type of business enterprise that the applicant utilizes, e.g. proprietorship, partnership, or corporation, together with the identity and address of each principal.
- (3) Criminal history information for every principal as required by the director to determine compliance with section 1-10 of this Code.
- (4) Evidence that the applicant has a place of business within the metropolitan area from which the applicant's taxicab business is or will be operated and that use of the proposed location is in compliance with any applicable deed restrictions.
- (5) A statement indicating the number of permits requested by a new entrant applicant or an other applicant.
- (6) A statement indicating whether the applicant is a new entrant applicant or an other applicant.
- (7) For new entrant applicants, evidence that the applicant's operator has within the preceding period of ten years had at least five years active and practical taxicab business experience, with at least two of those years in the city.

- (8) For other applicants, the identity of the permittee as defined in section 46-16 of this Code on whose behalf the application is filed.
- (9) Evidence that the operator is either a United States citizen or an alien legally residing in the United States with the legal right to engage in employment in the United States.

Each application shall be accompanied by a filing fee. The filing fee shall be an amount established by city council by motion upon recommendation of the director of administration and regulatory affairs. The fee approved under this provision shall be included in the city fee schedule.

(b) The director shall initially review each application for issuance or amendment of a permit to determine whether the application is complete and all required information has been provided. If not, the director shall return the application and advise the applicant of the deficiencies. Each applicant, whether a new entrant applicant or other applicant, shall be limited to the consideration of one application per permit computation year. An application filed by a new entrant applicant shall be considered a duplication if any principal is also named in another application. An application filed by an other applicant shall be considered to be a duplicate if it identifies the same permittee as any previously filed application. In case of multiple applications, the first one filed shall be considered, and all others shall be returned unless the applicant elects in writing to withdraw the earlier-filed application.

(c) The director shall review applications received ~~and~~ on or before March 1 of the permit distribution year and advise each applicant whether the applicant has been determined to be qualified or unqualified. An applicant is considered qualified if each of the following criteria is met:

- (1) The application was filed in completed form with no material inaccuracies or omissions, provided that if the application as originally filed was substantially complete and in proper form, the director shall allow an applicant a reasonable opportunity to correct any minor inaccuracies or omissions if that can be accomplished without delaying the processing of applications.
- (2) Neither the applicant nor any other business entity with which any of its principals is or was then associated has transferred one or more permits to another person within the four year period preceding the date of filing of the application, exclusive of transfers made for the purpose of settlement of estates and divorce proceedings, or exclusive of transfers to effect a change in the form of entity when the principal owner in the original company remains a principal in the subsequent entity, e.g., sole proprietorship or partnership to a corporation. This item applies only to the transferor and not the transferee.

- (3) The applicant and its principals are in compliance with the criminal history provisions of section 1-10 of this Code.
- (4) The applicant's operator has the experience required in item (a)(7) above.
- (5) The applicant's operator is a citizen or resident alien with work privileges as provided in item (a)(9) above.
- (6) The applicant has a place of business within the metropolitan area as provided in item (a)(4) above.
- (7) The applicant is in compliance with any other applicable requirement of this Code and other laws.

(d) Applicants who are determined to be unqualified shall also be notified of the grounds asserted for that determination and of their right to a hearing upon the determination to be conducted by an independent hearing examiner designated by the director. If the determination is based in whole or in part upon section 1-10 of this Code, then the notice and hearing procedures shall also include any requirements to comply with section 1-9 of this Code and applicable state laws. The determination of the hearing examiner with respect to the application shall be final, unless otherwise provided by law.

(e) Following the completion of the appeal hearings, if any, as provided in subsection (e), the director shall generate a list of qualified new entrant applicants and a list of qualified other applicants.

Sec. 46-66. Drawing; distribution.

(a) Based upon the list generated for new entrant applicants in section 46-65(e) of this Code and the number of permits reserved for new entrant applicants in section 46-64(a) of this Code, the director shall conduct or cause to be conducted a public drawing to determine the granting of permits. All qualified new entrant applicants shall be invited to attend the drawing. The drawing shall be conducted in such a manner as to ensure distribution of the permits by random chance. Each new entrant applicant may receive no more than one permit.

(b) For other applicants, an equal percentage of permits shall be granted to each qualified applicant based on the total number of permits reserved for other applicants in section 46-64(a) of this Code and the total number of permits requested by qualified other applicants. For example, if a total number of 100 permits is reserved for other applicants and the qualified other applicants have cumulatively requested a total number of 200 permits, then each qualified other applicant shall receive 50 percent of the number of permits he requested. Fractional permits may not be issued. The director may adjust percentages as required equitably to dispose of fractions or conduct a public drawing in accordance with regulations promulgated for that purpose to resolve any fractional imbalance.

(c) Within five days following the completion of the drawing and distribution process, the director shall notify qualified applicants of the number of permits granted to each by mailing a notice to each qualified applicant at his last known address.

(d) In permit years in which permits are issued, a qualified other applicant who meets the criteria set forth below may petition the city council requesting that he be granted permits or additional permits in an amount not exceeding the difference between the number of permits the applicant requested in his application and the number of permits that the applicant was granted, if any, under subsection (b) above. Petitions shall be filed with the director within 30 days following the date of mailing of the notices under subsection (c) above, upon forms promulgated by the director. The director shall forward to city council each timely filed petition. In order to be considered for permits hereunder, a petitioner shall be required to demonstrate through written evidence submitted with the petition that is independently verifiable by the director that each of the following criteria has been satisfied:

- (1) The petitioner has had an overall vehicle utilization rate of 90 percent or more during the six month period preceding the date of filing of the petition as determined in accordance with computation regulations established by the director. Acceptable evidence shall include lease documents or employer tax records; and
- (2) The petitioner's taxicab business has sustained growth from sources other than trips departing from the city airports in a percentage at least equal to the taxicab permit adjustment factor. Acceptable evidence shall be in the form of growth in radio dispatch trips, growth in trips from contracts, growth in reservation trips (commonly known as personal trips), or any combination thereof. Percentage growth shall be measured over the three year period preceding the filing date of the petition; provided, however, that during the 2001 permit issuance process, growth shall be measured from February 2000 to the date of filing of the petition, and a corresponding adjustment shall be made to the taxicab permit adjustment factor for purposes of petitions under this subsection (d).

(e) The total number of additional permits granted to all petitioners under this subsection—(d) may not exceed 25 percent of the available permit number. The purposes of granting additional permits, if any, by petition under this subsection—(d) are (i) to foster enhanced competition within the taxicab industry, (ii) to increase the level and quality of taxicab service available to the public for other than city airport departure trips, and (iii) to promote more efficient utilization of taxicabs, which purposes should enhance the public satisfaction and generate operating cost and fare savings. Within 60 days following the last day for filing of petitions, the director shall submit the petitions to the city council for consideration with a report setting forth and including:

- (1) The director's determination whether each of the petitioners has met each of the consideration criteria set forth above and is therefore eligible or ineligible to be considered hereunder; and
- (2) If two or more petitioners have met each of the consideration criteria, the relative ranking of those petitioners with respect to their utilization rates and sustained growth rates for service other than trips departing from city airports.

The director shall forward the petitions and report to city council accompanied by any relevant portions of the application processing record. City council shall consider the matter based upon the petition, report, and record in the same manner as an appeal under City Council Rule 12. The decision of city council shall be based upon the consideration criteria and purposes set forth above, and the city council's decision whether to grant any additional permits and, if so, the distribution thereof shall be final.

Sec. 46-67. Insurance as prerequisite.

(a) Before any taxicab permit shall be issued to any person, or before renewal of any permit shall be granted, the applicant shall file an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that he has qualified as a self-insurer, as the term is defined in the Texas Motor Vehicle Safety Responsibility Act as now in force or hereafter amended.

(b) The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Additionally, the insurance policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director. In the event that a policy terminates or is cancelled without replacement, then each permit to which it pertains shall be suspended, and those taxicabs may not be operated. If a proper replacement policy is not provided to the director on or before the 10th business day after the date of termination or cancellation of the policy, the permit shall automatically terminate. Proof of insurance coverage shall be maintained at all times and shall be accepted only in the authorized form approved by the Texas Department of Insurance for that purpose.

Sec. 46-68. Fee.

(a) The annual fee for a permit under this division is stated for this provision in the city fee schedule and is payable for each taxicab. In the event a permit is issued for a period of time less than eight months, the permit fee shall be prorated according to the number of months remaining in the permit period, payable at the rate stated for this provision in the city fee schedule for each month or fraction of a month, not to exceed the full amount of the annual fee. The reissuance of any certification decal that is lost,

mutilated or otherwise rendered unusable shall be provided only upon reinspection of the taxicab.

The annual permit fee shall be paid in advance to the department of administration and regulatory affairs in three installments on or before May 1st, June 1st, and June 15th of each calendar year in amounts prescribed in the city fee schedule.

(b) Within 90 days following the expiration of any calendar year a permittee may apply to the director for a refund of a portion of his permit fees if the permit fees paid for the previous calendar year exceed two percent of the permittee's gross receipts. The refund application shall be made on a form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of gross receipts records maintained by the permittee in a form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by or on behalf of the applicant. The applicant shall state that the application or supplement and all attachments thereto are correct and complete and do not omit any material item, and that the applicant either: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating the refund request, the director shall either:

- (1) Refund or credit to the account of the permittee the amount by which the total permit fees paid for the previous calendar year exceed two percent of the permittee's total gross receipts for the previous calendar year; or
- (2) Deny the refund.

Sec. 46-69. Issuance.

Taxicab permits shall be issued by the director upon determination that the applicant is entitled to receive a taxicab permit and has otherwise complied with all of the requirements of this article, and upon payment by the applicant of the fee prescribed by section 46-68 of this Code.

Sec. 46-70. Term; renewal.

A permit issued under this division shall be valid for a one-year permit term commencing on May 1 and extending through the succeeding April 30th. A permit may be renewed each year by payment of the annual fee as provided in section 46-68 of this Code.

Sec. 46-71. Changes in principals after issuance.

Any change in principals of a permittee shall be subject to an application to be filed in the same manner as under section 46-65 of this Code for a permit application and shall only be authorized to the extent that the applicant is qualified thereunder,

provided that the director may utilize modified application forms and procedures that do not require the provision of information or data that is applicable by its nature to the issuance of a new permit but not applicable to the decision process for a change in principal. The director shall authorize the permittee to continue to operate on a temporary basis pending the determination if, based upon an initial review of the application, it appears that the applicant will be determined to be qualified. If the application is denied, the permittee may not continue to utilize the permit(s), and the permit(s) shall terminate on the 30th day following notice of denial and any appeal therefrom, unless the permittee divests itself of the new principal or otherwise returns to compliance with this article.

Sec. 46-72. Transfer of permits.

(a) When used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:

New permit means any permit that has been issued for a period of less than five years, as computed from the date of its initial issuance by the city.

Old permit means any permit that is not a new permit.

Transfer means any sale, lease, lease assignment, or other arrangement by contract or otherwise whereby a permittee allows another person on a temporary or permanent basis to make use of one or more permits that are held by the permittee except an arrangement in the nature excepted in subsection (b).

(b) The terms of this section do not apply to a license, lease, or subcontractor arrangement in conformity with section 46-17 of this Code between a permittee and an individual driver-operator that allows the driver-operator to operate a taxicab under one of the permittee's permits, provided that:

- (1) The permittee remains fully responsible to the city for the actions of the driver-operator as provided by this article;
- (2) The arrangement does not convey any right to purchase or acquire the permit or option to do so; and
- (3) The arrangement provides by its terms that it may not be used in any manner as collateral or as a guarantee to support any loan or extension of credit.

(c) A permit may only be transferred to:

- (1) A person who is an existing permittee; or
- (2) A person who would be qualified to obtain a permit as a new entrant applicant under this division.

(d) Any transfer to a person who is not an existing permittee shall be subject to an application to be filed in the same manner as under section 46-65 of this Code for a permit application and shall only be allowed to the extent that the applicant is determined to be qualified thereunder. The director may authorize the transfer on a temporary basis pending the completion of the processing of the application, subject to the same provisions set forth in section 46-71 of this Code.

(e) Except as provided in this subsection, a new permit may not be transferred in any manner or by any means, whether at law, by contract or otherwise, and may only be held by the person with the same principals named as the applicant in the application filed under section 46-65 of this Code. Any alienation of a new permit or use of any taxicab operated thereunder other than in the business owned and operated by the lawful holder of the new permit shall render the permit void.

A new permit shall constitute a privilege to which no property interests or rights of any kind or character shall appertain. However, in the case of the death, disability, or unavailability of any new permittee or principal thereof or for other good cause, the city council may, by motion, upon request duly filed with the city secretary, authorize the reassignment of the new permit to a spouse, child, or other close relative of the new permittee who will carry on the business. The proposed transfer shall be first referred by the city secretary to the director of administration and regulatory affairs for a determination that the proposed transferee is qualified to receive the transfer of the new permit under the applicable provisions of this Code. A new permit shall be subject to revocation and shall be unlawful to possess to the extent that it is used in contravention of this subsection. The new permittee shall be entitled to notice and a hearing in the same manner as provided in this article for revocation of permits for other grounds.

(f) A permit that is subject to a suspension or revocation proceeding may not be transferred, nor may a suspended permit be transferred during the period of suspension.

Secs. 46-73—46-85. Reserved.

DIVISION 3. RESERVEDLICENSES

~~Secs. 46-86.—Required.~~

~~—(a) It shall be unlawful for any person who does not hold a current and valid license issued under this division to operate a taxicab on the streets of the city. Duly authorized licensees shall have a current and valid license in his possession at all times when operating a taxicab and shall display the license to any peace officer or city inspector upon request.~~

~~—(b) No permittee shall suffer or allow any of his taxicabs to be driven by anyone who does not possess a current and valid license.~~

Sec. 46-87. — License application.

~~Applications for licenses shall be submitted to the director on a form promulgated by the director. The applicant shall provide the following information with each application, which shall be sworn before a notary public or conform to minimum state law requirements for unsworn declarations:~~

- ~~(1) The applicant's full name, residence, places of residence for five years previous to moving to his present address, age, race, height, weight, color of eyes and hair, place of birth, and length of time he has resided in the city;~~
- ~~(2) Whether the applicant is a citizen of the United States, and his record of employment for the past five years, social security number, and marital status;~~
- ~~(3) Whether the applicant has ever been convicted of a felony or misdemeanor;~~
- ~~(4) Whether the applicant has previously been a licensee;~~
- ~~(5) Whether the applicant has ever been denied a license or has had one or more licenses revoked or suspended;~~
- ~~(6) Whether the applicant has ever had a private passenger vehicle operator's license or a commercial vehicle driver license or a chauffeur's license revoked;~~
- ~~(7) The permittee that the applicant intends to work for; and~~
- ~~(8) Evidence of compliance with any qualifications established in this article and any other relevant information that may be requested by the director.~~

Sec. 46-88. — Qualifications of applicant.

~~Each applicant for a license required by this division must:~~

- ~~(1) Have a valid state class A, B or C Texas driver license.~~
- ~~(2) Be 18 years of age or older.~~
- ~~(3) Be a person of good moral character.~~
- ~~(4) Be able to read and write the English language.~~
- ~~(5) Produce, on forms to be provided by the director, affidavits of his character from two reputable citizens who have known him personally and observed his conduct for at least one year.~~

- ~~(6) Submit to medical examination by a licensed physician and provide the report of the physician, which must be signed by the physician, on forms to be provided by the director.~~
- ~~(7) Have no criminal history that is disallowed under section 1-10 of this Code. Upon initial application for a license and at renewal intervals of six years, the director shall cause each applicant's criminal history to be researched. The applicant shall complete any forms required for the director to obtain the report and provide funding to the director in a manner specified to cover any fees imposed by state or federal agencies for the report. The provision of this requirement shall not be construed to preclude the director from obtaining interim reports at the expense of the city.~~
- ~~(8) Provide evidence, in a form to be specified by the director, that he is either (i) a citizen of the United States of America by birth or naturalization or (ii) an alien legally residing in the United States of America who has the legal right to engage in employment as a licensee.~~
- ~~(9) Provide a driving record, in a form to be specified by the director, from Texas and from any state that has issued the applicant a driver license that was valid at any time within the three years immediately preceding the submission of the application.~~
- ~~(10) Demonstrate by means of passing an examination, promulgated by the director, that the applicant possesses minimum essential knowledge of this article of this Code as well as city streets.~~
- ~~(11) Demonstrate the attendance and successful completion of a training course approved by the director regarding public relations and communication skills. A licensee must successfully complete a refresher training course complying with this item prior to the renewal of a license.~~

Secs. 46-89, 46-90. Reserved.

Sec. 46-91. Issuance or denial.

~~—The director, upon consideration of the application and reports submitted under this division, as reflecting the applicant's character, and the applicant's reputation in the community for character, shall, subject to applicable requirements of this article, issue the license or deny the application. If the application is denied, the applicant shall be notified in writing by the director within five days that his application has been denied and the grounds therefor. If the grounds are based in whole or in part upon section 1-10 of this Code, then the notice shall comply with section 1-9 of this Code and applicable state laws.~~

Sec. 46-92. — License term; renewal.

~~Each license shall expire two years from the date of issuance. The license may be renewed by making application to the director upon forms provided by the director for that purpose 30 days prior to the date of expiration of the license.~~

Sec. 46-93. — Fee.

~~No fees shall be charged for the issuance of a license, or for renewal thereof.~~

Sec. 46-94. — Appeal from denial of application.

~~The decision of the director in denying an application for a license under any provision of this article may be appealed to an independent hearing examiner designated by the director. Each appeal must be perfected by a letter addressed to the director and delivered to the director's office within 15 days of the date that notice of the director's decision, addressed to the party making the appeal, is placed in the United States mail. The letter of appeal must state that an appeal from the decision of the director is desired. The director may grant the applicant a hearing only if the applicant's notice of appeal is in writing and timely given. The hearing shall be conducted in accordance with section 1-9 of this Code and applicable state laws if the denial was based in whole or in part upon section 1-10 of this Code. Subject to any further appeal authorized by state law, the hearing examiner's decision shall be final.~~

Sec. 46-95. — State driver license status.

~~The issuance of a license is subject to the holder's maintenance of a current and valid Class A, B, or C Texas Driver License and the expiration, suspension, or revocation of the State license shall automatically render the license invalid until the applicant again holds a current and valid state license.~~

Sec. 46-96. — Waiting period before becoming eligible to reapply.

~~A person whose application for a permit or license has been denied or whose current permit or license has been revoked or refused for renewal and such action has become final shall be required to wait a period of one year from the date the denial or revocation became final before becoming eligible to reapply for a permit or license.~~

Secs. 46-97—46-110. Reserved.

DIVISION 4. MISCELLANEOUS LICENSEE REQUIREMENTS

Sec. 46-111. Licensee appearance.

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

~~(b) Male licensees shall be clean-shaven, and hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well-groomed and neatly trimmed at all times in order not to present a ragged appearance.~~

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

~~(ce) Subject to the limitations of subsection (de) below, the term *suitably dressed* shall be interpreted to mean the licensee, if female, shall wear a skirt, trousers, or slacks, a shirt or a blouse, shoes, and, if desired, appropriate outer garments.~~

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

Sec. 46-112. Reserved.

Sec. 46-113. Limitation on hours of work.

(a) ~~A~~Ne licensee shall not drive more than 12 hours in any ~~one~~-consecutive 24 hour period.

(b) ~~A~~Ne taxicab permittee shall not suffer or allow any licensee to drive a ~~taxicab~~ for more than 12 hours in any consecutive 24 hour period.

Sec. 46-114. Duty to transport passengers by shortest route.

Each licensee shall transport his passengers to definite points designated by the passengers, and he shall take the most direct and shortest route to deliver the passengers safely and expeditiously to their destination.

Sec. 46-115. Duty to pull to curb to load or unload.

It shall be the duty of each licensee to pull his vehicle to the curb when loading or unloading passengers.

Sec. 46-116. Refusal to discharge passenger at designated place.

(a) ~~A~~Ne licensee shall not refuse to discharge a passenger at any place designated by the passenger upon the streets of the city, except when the place so designated is at a point not easily accessible by reason of an obstruction, a no parking zone, or conditions rendering the designated place or access to the designated place unreasonably hazardous.

(b) The provisions of this section shall not be deemed to excuse compliance with section 46-115 of this Code, which requires passengers to be unloaded at the curb.

Sec. 46-117. Leaving taxicab while waiting at depot, airport, hotel, etc.

No licensee shall leave his taxicab for any purpose, except in emergencies, while he is waiting at a depot, airport or hotel. This section does not prohibit a licensee from assisting passengers in loading and unloading.

Sec. 46-118. Reserved.~~Duty to inspect vehicle; procedure when passenger leaves article in cab.~~

~~———— (a) Each licensee shall inspect his taxicab before going on duty and after discharging each passenger to see that the taxicab is free of cigars, cigarettes, papers, bottles, and anything that could cause offensive or objectionable odors. He shall check the interior of the taxicab and the trunk to see that no articles have been left in the vehicle after each passenger reaches his destination. In the event a passenger should leave any article in the taxicab, the licensee shall immediately notify the taxicab dispatcher and shall immediately return the article to the owner, the company dispatcher, or a company representative, before making another trip. When a licensee delivers the article to the owner or the dispatcher, a receipt for the article shall be prepared in triplicate. The original copy of the receipt shall be mailed to the director, the second copy retained by the licensee, and the third copy shall be furnished to the permittee.~~

~~———— (b) The permittee shall keep the article for a period of not more than ten days and, if the owner of the article has not called for it within that period of time, the permittee shall then deliver the lost article to the office of the chief of police. The chief of police shall give the permittee a receipt for the article and, following any holding period required for the redemption, shall cause the item to be disposed of in accordance with applicable law.~~

Sec. 46-119. Duty to transport within the corporate limits.

It shall be unlawful for a licensee to refuse to transport a person to a requested destination located within the corporate limits of the city.

Secs. 46-120—46-140. Reserved.

ARTICLE III. PEDICABS

DIVISION 1. GENERALLY

Sec. 46-141. Definitions.

When used in this article, the following words and terms shall have the meanings provided in this section, unless the context of their usage clearly indicates another meaning:

Bicycle means a belt-, chain-, or gear-driven device propelled by human power and on which a person may ride and that has two tandem wheels, either of which is more than 14 inches in diameter.

Daytime means the period between sunrise and sunset.

License means a pedicab driver's license issued pursuant to division 2 of article I of this chapter~~article~~.

Licensee means any person in physical control of a pedicab who is the holder of a current and valid pedicab driver's license ~~issued pursuant to division 2 of this article~~.

Nighttime means the period between sunset and sunrise.

Pedicab means a bicycle or tricycle used to transport passengers for hire, including a bicycle to which is attached a trailer, sidecar, or similar device.

Pedicab service means the business of transporting passengers for hire by means of a pedicab. Specifically excluded from this definition are:

- (1) Vehicles used in connection with any phase of a funeral or funeral service;
- (2) Taxicabs, and jitneys, sightseeing and charter vehicles, chauffeured limousines, school vehicles, low speed shuttles, and transportation network vehicles permitted and licensed by the city;
and
- (3) Vehicles operating under a contract with the city; ~~and~~
- (4) ~~Sightseeing or charter vehicles licensed by the city.~~

Permit means a permit to operate a pedicab service pursuant to this article.

Permittee means any person, partnership, corporation, firm, joint venture, limited liability company, association, organization and any other entity holding a permit issued pursuant to this article.

Tricycle means a belt-, chain-, or gear-driven device that is propelled by human power and on which a person may ride and that has three wheels in contact with the ground, any of which is more than 14 inches in diameter.

Sec. 46-142. Reserved.

Sec. 46-143. Article cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of division 3 of article II of chapter 9 of this Code. The director shall not approve the operation of a pedicab upon any airport terminal complex unless the permittee has first obtained an airport use permit for use of pedicabs.

Secs. 46-144—46-150. Reserved.

DIVISION 2. PERMITS AND LICENSES

Sec. 46-151. Permit required.

(a) It shall be unlawful for any person to operate a pedicab service without first obtaining a permit pursuant to the terms of this division.

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

- (1) Have no conviction of an offense listed in subsection (c) of section 1-10 of this Code;
- (2) Identify each pedicab the applicant desires to receive a certification decal for, including trade name, if any, serial or identification number and body style of the pedicab;
- (3) Identify the proposed route(s) or area(s) where the applicant desires to operate the pedicab service;
- (4) Provide proof of insurance pursuant to the requirements of this article;
- (5) If a natural person:
 - a. Be 18 years of age or older;
 - b. Be able to read and write the English language; and

- c. ~~Provide written character references from two persons who have known the applicant for at least two years attesting to the applicant's good moral character. Character references shall be from persons who reside in the city unless the applicant has not resided in the city or county for the preceding five-year period; and~~
- d. ~~Hold a current and valid class A, B, or C Texas driver license;~~
- (6) Not have had a license or permit issued under this chapter denied, revoked or refused for renewal, by the city within the one-year period preceding the date of filing of the application;
- (7) Provide evidence that the applicant has a place of business within the metropolitan area from which the applicant's pedicab service will be operated and that ~~thesuch~~ use of the location is in compliance with any applicable deed restrictions enforceable by the city; and
- (8) Provide any other information reasonably requested by the director for administration of this article.

Sec. 46-152. License required.

It shall be unlawful for any person to operate a pedicab without a license issued pursuant to this ~~chapter~~article.

Sec. 46-153. Fees.

~~(a) There shall be a fee in the amount stated for this provision in the city fee schedule for the issuance of a license.~~

~~(b) There shall be a nonrefundable application processing fee in the amount stated for this provision in the city fee schedule payable upon the filing of an application for a permit.~~

~~(c) In addition to the application processing fee provided in subsection (a) of this section, an annual permit fee in the amount stated for this provision in the city fee schedule shall be payable for each pedicab before it is placed into service and annually thereafter on before May 1 of each year.~~

Sec. 46-154. Application.

(a) Each person desiring to obtain a ~~license or~~ permit shall apply on forms provided by the director and shall include all information required by this article.

(b) Each ~~license and~~ permit applicant (including the proprietor if a proprietorship, each partner if a partnership, or each corporate officer, ~~director, or holder of ten percent or more of the outstanding stock~~ if a corporation) shall appear at a location specified by

the director for identification and fingerprinting to determine the existence of any conviction of any applicable offense(s) set forth in subsection (c) of section 1-10 of this Code. If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested.

Sec. 46-155. Review.

(a) Following review of the application, the director shall provide the applicant with written notification of the approval or denial of the requested permit or license. The director shall initially review each application for issuance or amendment of a permit to determine whether the application is complete and all required information has been provided. If not, the director shall return the application with a statement of deficiencies.

(b) The submission of any false information or a materially incomplete application, including but not limited to an applicant's failure to provide any information reasonably requested by the director, shall be grounds for denial of the application. In the event of denial, the director shall give the applicant ~~shall be given~~ written notice of the basis for the denialsuch action. The applicant shall be entitled to appeal a decision based, in whole or in part, upon section 1-10 of this Code. Notice of any denial shall comply with section 1-9 of this Code and applicable state laws.

(c) If the application is denied on the basis of the applicant's failure to satisfy any other requisites stated in this division, the applicant may request a hearing by submitting a written notice of appeal to the director within 15 business days following the date notice of the director's decision is deposited in the United States Mail. A hearing official shall conduct a ~~An informal hearing and shall be conducted by an impartial hearing officer who~~ shall render a decision within 30 business days from the date of the filing of the appeal. At the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the ~~license or~~ permit.

(d) If the reason for the denial of an application is curable, the director shall allow the applicant, upon a written request, to submit an amendment within the time allowed in subsections (b) and (c) for an appeal, in lieu of filing an appeal. If the director denies the application is again denied, the applicant shall still be entitled to file an appeal within 15 business days following the date notice of the director's decision regarding the amended application is deposited in the United States mail.

(e) ~~A license shall be issued upon the approval of the application therefor. The director shall not issue a~~ permit shall not be issued until the applicant has identified each pedicab, if not provided with the application, and has also obtained a satisfactory inspection and certification decal, provided proof of insurance, and provided proof of ownership or lease of each pedicab.

(f) The director shall promulgate regulations and procedures for any required hearings which shall be consistent with sections 1-9 and 1-10 of this Code and applicable state laws.

Sec. 46-156. Transfer; nonexclusive; fee.

(a) A ~~license or permit~~ is personal to the ~~licensee or permittee~~ to whom it is issued and may not be transferred or otherwise assigned. Any change of ownership, partnership interests, corporate officer or, director, ~~or holder of ten percent or more of the outstanding shares of stock as shown~~ on the permit application shall render a permit void, unless an application for transfer is filed within ten days following the effective date of the change. The director shall promulgate procedures for the processing of amendments and may suspend the permit pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an offense listed in section 1-10(c) of this Code. The fee for filing an application amendment is stated for this provision in the city fee schedule.

(b) Each permit is nonexclusive, and no limits or restrictions shall exist upon the number of pedicabs that may be approved, provided that each must be operated pursuant to a permit and in accordance with all applicable requirements of this article.

Sec. 46-157. Permit ~~Terms of licenses and permits.~~

(a) ~~A license shall be valid for two years from the date of issuance. A permit shall be valid for five years from the date of issuance.~~

(b) In accordance with regulations promulgated by the director, a permit may be amended, without charge, for the limited purpose of adding, deleting or substituting any number of pedicabs; provided however, the addition, deletion, or substitution of any pedicabs pursuant to a current and valid permit shall require an inspection as provided for in section 46-161 of this Code, including the payment of the inspection fee.

~~(c) A person whose application for a license or permit has been denied or whose current license or permit has been revoked or refused for renewal and such action has become final shall be required to wait a period of one year from the date the denial or revocation became final before becoming eligible to reapply for a license or permit.~~

Secs. 46-158—46-160. Reserved.

DIVISION 3. PEDICAB OPERATING REQUIREMENTS

Sec. 46-161. Pedicab inspection; fee.

(a) It shall be unlawful for any person to operate or cause to be operated any pedicab unless the pedicab has been inspected as required in this section and has a current and valid certification decal affixed in a manner and location prescribed by the director. There shall be a non-refundable inspection fee stated for this provision in the city fee schedule for each pedicab. All pedicabs shall be maintained in a safe and sanitary condition and shall be thoroughly cleaned and disinfected at least once in each 24-hour period.

(b) The director shall inspect eEach pedicab shall be inspected before it is initially placed into service and thereafter before May 1 of each year at such location as the director may specify. The director shall approve the pedicab if he determines that:

- (1) The pedicab is of the approved color scheme and is marked as provided in this article;
- (2) The pedicab is in generally good working condition with no safety-related defects, including inspection or testing of the wheels, brake system, pedicab frame, passenger compartment, audible signaling device, steering mechanism, tires, front lamp, rear lamp, and all reflectors; and
- (3) The pedicab complies with all other requirements of this article.

(c) Upon satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the pedicab. In any prosecution under this section, it shall be presumed that a pedicab has not been inspected as required in this section unless it has a current and valid certification decal affixed thereto.

(d) The director shall provide rReplacement certification decals shall be provided only upon reinspection of the pedicab and payment of the applicable inspection fee provided in subsection (a) of this section.

(e) It shall be unlawful to:

- (1) Remove, move, alter, or deface a certification decal;
- (2) Transfer a certification decal from the pedicab for which it was issued to another pedicab;
- (3) Operate a pedicab with a certification decal that was not issued for that pedicab; or
- (4) Operate a pedicab with a fictitious or fraudulent certification decal.

(f) The director may inspect any pedicab and any records or documents required to be carried in or on the pedicab at any time upon presentation of identification to the licensee in order to determine compliance with the provisions of this article and the regulations adopted by the director.

Sec. 46-162. Authorized operators.

No pedicab shall be operated by anyone except the permittee or an employee of the permittee or other person who may be operating the pedicab under a written agreement specifically incorporating therein any rules, regulations, and conditions as may be reasonably required by the director to ensure compliance with applicable laws and regulations. The permittee shall be responsible for any person operating under his

permit whether the person is an employee or is a person operating under a written agreement. Any person operating a pedicab on the streets or other public property of the city is presumed to be an employee of the permittee or to have entered into a written agreement with the permittee. Any person operating a pedicab on the streets or other public property of the city shall be required to secure a license pursuant to this chapterarticle.

Sec. 46-163. Rate structure and fares.

A permittee shall file all rate structure and fare information with the director. It shall be unlawful for a permittee or licensee to charge a passenger a fare that was not agreed upon with the passenger in advance or to demand a fare from a passenger after agreeing to provide the service for a gratuity only.

Sec. 46-164. Receipt for payment of fare.

No licensee, upon receiving full payment for a fare as authorized by this article, shall refuse to provide a receipt upon the request of any passenger. The permittee of the pedicab shall make available to each licensee a receipt book or other electronic instrument capable of creating a payment record for this purpose.

Sec. 46-165. Posting of pedicab driver's license, fares, and other information.

(a) Each permitted pedicab shall be equipped with a holder mounted in a conspicuous location on the pedicab to ensure that its contents are visible by the passengers. It shall be the duty of the permittee and licensee to post in this holder a photograph of the licensee, the licensee's name, and a copy of the licensee's pedicab license. Each permitted pedicab shall also display the name, trademark, logo, or other identifying information of the permittee and the specific fares charged for services rendered. The size and content of the permittee's information and the posted fares shall be affixed to the pedicab in a manner approved by the director.

(b) It shall be the duty of each permittee and licensee to post a card with the telephone numbers of the director and the permittee for complaint purposes regarding pedicab services or charges. The card shall be mounted adjacent to licensee's pedicab license information and shall inform any passenger that wishes to file a complaint to obtain the pedicab certification decal number as posted on the pedicab, and the date, time, destination, and fare charged. The director shall approve the size of the print, the colors, and the information to be provided so that the information may be easily read by passengers.

Sec. 46-166. Carrying additional passengers.

Any passenger who engages the services of a pedicab shall have the exclusive right to the passenger compartment of the pedicab. It shall be unlawful for a licensee to carry additional passengers unless specific permission is obtained from the passenger who originally engaged the pedicab.

Sec. 46-167. Operation of pedicabs on roadways.

(a) All pedicabs operating on a roadway shall comply with all traffic laws of the state and applicable provisions of this Code.

(b) All pedicabs operating on a roadway and moving slower than the other traffic on the roadway shall ride as near as practicable to the right curb or edge of the roadway, unless:

- (1) The pedicab is passing another vehicle moving in the same direction;
- (2) The pedicab is preparing to turn left at an intersection or onto a private road or driveway;
- (3) A condition on or off the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal, or surface hazard prevents the pedicab from safely riding next to the right curb or edge of the roadway; or
- (4) The person is operating a pedicab in an outside lane that is:
 - a. Less than 14 feet in width and does not have a designated bicycle lane adjacent to that lane; or
 - b. Too narrow for a bicycle and a motor vehicle to safely travel side by side.

(c) A licensee operating a pedicab on a one-way roadway with two or more marked traffic lanes may ride as near as practicable to the left curb or edge of the roadway.

(d) Licensees operating pedicabs on a roadway may ride two abreast. Licensees riding two abreast on a laned roadway shall ride in a single lane. Licensees riding two abreast may not impede the normal and reasonable flow of traffic on the roadway. Licensees may not ride more than two abreast unless they are riding on a part of a roadway set aside for the exclusive operation of bicycles, tricycles, or other similar forms of non-motorized transportation.

(e) Each licensee shall pull his or her pedicab to the curb when loading or unloading passengers.

Sec. 46-168. Pedicab condition.

It shall be unlawful for a permittee or licensee to operate, or cause to be operated, a pedicab that is not in good working order, including, but not limited to, the operation of a pedicab that has:

- (1) Exposed rust;
- (2) Ripped upholstery or fabric;
- (3) Visible chips or scratches on any painted surface;
- (4) Exposed wood that is not painted and in good condition;
- (5) Exposed sharp edges; or
- (6) Dirt or debris on any surface accessible to patrons.

Sec. 46-169. Licensee appearance.

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

~~(b) Licensees shall be clean-shaven or facial hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well-groomed and neatly trimmed at all times.~~

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

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

Sec. 46-170. Pedicab lighting and reflectors.

It shall be unlawful for any permittee or licensee to operate, or cause to be operated, a pedicab that does not have the following:

- (1) A lamp on the front that emits a white light visible from a distance of at least one hundred feet to the front during daytime;
- (2) A lamp on the front that emits a white light visible from a distance of at least five hundred feet to the front during nighttime;
- (3) A red reflector on the rear of a type approved by the Texas Department of Transportation that is visible from fifty feet to three hundred feet to the rear

when the reflector is directly in front of lawful upper beams of head lamps on a motor vehicle during nighttime; and

- (4) One lamp that emits a red light visible from a distance of five hundred feet to the rear during nighttime.

Sec. 46-171. Pedicab brakes.

It shall be unlawful for a permittee or licensee to operate, or cause to be operated, a pedicab that is not equipped with a braking system capable of being manipulated by the licensee from his normal position of operation and is capable of causing a pedicab with a loaded passenger compartment to come to a complete stop in a linear path of motion when each wheel of the pedicab is in contact with the ground on dry, level, clean pavement.

Sec. 46-172. Pedicab seat belts.

It shall be unlawful for a permittee or licensee to operate, or cause to be operated, a pedicab that is not equipped with a lap seat belt for each passenger.

Sec. 46-173. Pedicab trailer; limitation on number.

It shall be unlawful to operate a pedicab with more than one attached trailer, sidecar, or similar device.

Sec. 46-174. Pedicab width.

It shall be unlawful to operate a pedicab that is wider than 54 inches at its widest point.

Sec. 46-175. Pedicab operation; conduct.

(a) It shall be unlawful for a licensee operating a pedicab, or a permittee operating a pedicab service, to cause, suffer, or permit a licensee to:

- (1) Operate the pedicab other than on or astride a permanent and regular seat attached to the pedicab;
- (2) Carry at any one time a number of persons in excess of the number of seats available, provided that a passenger under five years of age shall not be considered a person for purposes of this subsection;
- (3) Operate a pedicab in a manner that results in damage to public or private property;
- (4) Fail to exercise due care to avoid colliding with a pedestrian on any roadway or sidewalk;

- (5) Operate a pedicab that is not equipped with an audible signaling device approved by the director and a radio, mobile telephone, or other means of two-way communication that may be used to request assistance in the event of an emergency;
 - (6) Permit a person riding on a bicycle, coaster, sled, toy vehicle or roller skates to attach to the pedicab;
 - (7) Operate a pedicab while carrying a package, bundle or article if the package, bundle or article prevents the operator from keeping at least one hand on the handlebars;
 - (8) Operate a pedicab on any street or adjoining sidewalk that has been closed to vehicular traffic by barricade or similar barrier;
 - (9) Permit or allow passengers to ride in or on a pedicab in such a position that the licensee's vision forward or to the side is blocked;
 - (10) ~~Refuse to board and convey a passenger on the basis of race, color, religion, sex, national origin, age, or disability, including the refusal to board and convey any service animal or medical equipment utilized in conjunction with a passenger's disability; or~~
 - (11) Stop or stand to pick up or discharge any passenger in a taxicab zone or any other area designated for other categories of vehicles.
- (b) It shall be unlawful for any person to operate a pedicab on a street where the posted speed limit exceeds 35 miles per hour, except for the purpose of crossing that street.
- (c) It shall be unlawful for any person, while operating a pedicab, to pick up or drop off passengers on a street where the posted speed limit exceeds 35 miles per hour.
- (d) It shall be unlawful for any person to operate a pedicab upon any portion of a public sidewalk except as necessary to access locations immediately adjacent to roadways through the use of points of ingress and egress made available for use by motor vehicles operating in compliance with all applicable traffic laws.
- (e) It shall be unlawful for any person, while operating a pedicab, to obstruct the flow of pedestrian or vehicular traffic by remaining stopped by a sidewalk, except for the time period necessary to load or unload passengers.
- (f) It shall be unlawful to operate a pedicab that does not have a clearly visible manufacturer's serial or identification number. In the case of a pedicab that is not of unibody design, it is sufficient for purposes of this subsection that either the operator's

portion or the passenger's portion of the pedicab contain the manufacturer's serial or identification number.

(g) It shall be unlawful to remove, deface, alter or destroy the manufacturer's serial or identification number on a pedicab.

Sec. 46-176. Pedicab insurance.

(a) Before any permit shall be issued to any person, or before renewal of any permit shall be granted, the applicant shall file with the director an commercial general liability insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) of this section.

(b) The insurance required in subsection (a) shall be in the form of commercial general liability policy. The required policy shall name the city as an additional insured and be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies~~carrier authorized or eligible to transact business in Texas.~~ The insurance shall be a policy of commercial general liability insurance, including broad form coverage, products and completed operations, and personal injury and advertising injury in an amount not less than \$1,000,000.00 12-month aggregate, and \$1,000,000.00 per occurrence.

(c) Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director and an endorsement requiring ten days' written notice of non-payment to the director. In the event that a policy terminates or is cancelled without replacement, then each permit to which it pertains shall be suspended, and all pedicabs within such coverage may not be operated. If a proper replacement policy is not provided to the director on or before the tenth business day after the date of termination or cancellation of the policy, the permit shall automatically terminate. Proof of insurance required in subsection (b) shall be carried by licensees at all times while operating a pedicab and shall be accepted only in the authorized form approved by the Texas Department of Insurance for that purpose.

Secs. 46-177—46-190. Reserved.

ARTICLE IV. SIGHTSEEING, CHARTER AND CHAUFFEURED LIMOUSINE SERVICES

DIVISION 1. GENERALLY

Sec. 46-191. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Chauffeured limousine shall mean:

- a. A sedan-type luxury motor vehicle with a passenger capacity of five or six persons (including the driver), which vehicle is either less than or equal to six years of age;
- b. An extended-body type motor vehicle with a passenger capacity of no more than 15 persons (including the driver), which vehicle is either less than or equal to ten years of age and modified to extend its original factory wheelbase by 40 inches or more in conformity with Federal Motor Vehicle Safety Standard requirements;
- c. A vehicle that is classified in the United States Environmental Protection Agency's annual Fuel Economy Guide as a sport utility vehicle that: (i) has a passenger capacity of not less than ~~five~~six persons nor more than nine persons, including the driver; (ii) has a manufacturer's suggested base retail selling price of not less than \$37,600.00, adjusted annually based upon Consumer Price Index (CPI-U), All Urban Consumers, U.S. City Average, New Trucks, as published by the U.S. Department of labor, excluding the cost of any manufacturer installed options or of any modifications or conversions that were made by other persons following the original assembly of the vehicle by the manufacturer. The adjustment shall be based upon the not seasonally adjusted data for the month of August and shall be effective November 1st; and (iii) is either less than or equal to six years of age;
- d. A passenger van with a ~~manufacturer's rated~~ passenger capacity of 9 to 15 persons (including the driver), which vehicle is less than or equal to ~~ten~~seven years of age; or
- e. An antique, classic, or special interest vehicle.

For the purposes of this article, *antique* ~~shall mean~~ a vehicle that is 25 years old or older; *classic* ~~shall mean~~ a vehicle recognized by the Classic Car Club of America; and *special interest* ~~shall mean~~ a vehicle that, due to limited production, outstanding design, and/or technical achievement, is of special interest. The age of the vehicle will be measured from the manufacturer model year date. The model year shall always count as the first full year. It shall be the duty of the director to make a determination as to whether or not a given vehicle is less than or equal to six years of age, ~~seven years of age~~, ten years of age, or is an antique, classic or special interest vehicle within the meaning of this article. In no event will a vehicle other than an antique vehicle be allowed in service for the first time with mileage in excess of 100,000 miles for vehicles, which mileage shall be determined from the odometer and from odometer and title records.

Chauffeured limousine service ~~shall mean~~ the business of renting or leasing a chauffeured limousine, as defined in this section, including the services

of a driver, to a person, solely upon his request or one acting for or on his behalf, ~~for any period of time not less than two hours~~ to be used by the person or persons hiring the vehicle or under their direction and authority for the period of time the vehicle is rented or leased. Specifically excluded from this definition are the following:

- a. Vehicles, and the drivers thereof, provided for use in connection with, or attending, or participating in any phase of a funeral or funeral service;
- b. Taxicabs, pedicabs, jitneys, sightseeing and charter vehicles, school vehicles, low speed shuttles, and transportation network vehicles permitted and licensed by the city;~~All taxicabs licensed by the city;~~ and
- c. All vehicles operating under a contract with the city.
- d. ~~All sightseeing or charter vehicles licensed by the city.~~

Extended body shall ~~mean~~ mean that a vehicle ~~has~~ shall have been modified to extend its original factory wheelbase by 40 inches or more in conformity with any applicable state or federal safety laws, standards, and regulations.

Gross receipts shall ~~mean~~ mean the aggregate of all sums collected by the licensee in the operation of either a sightseeing or charter service or a chauffeured limousine service; provided, however, that in the case of a chauffeured limousine service, the term "gross receipts" shall not include or apply to revenues derived from providing chauffeured limousine services involving a vehicle leased or rented from another chauffeured limousine agency that makes a similar charge to the licensee providing the service to the customer.

License shall ~~mean~~ mean a sightseeing or charter service or chauffeured limousine service driver's license issued pursuant to division 2 of article 1 of this chapter~~article~~.

Licensee shall ~~mean~~ mean the person in physical control of a motor vehicle operated as a sightseeing or charter vehicle or a chauffeured limousine who is the holder of a current and valid sightseeing or charter service or chauffeured limousine service ~~driver's license issued pursuant to the applicable provisions of this article~~.

Luxury motor vehicle shall ~~mean~~ mean a vehicle that has a manufacturer's suggested base retail selling price of not less than \$33,000.00, adjusted annually based upon Consumer Price Index (CPI-U), All Urban Consumers, U.S. City Average, New Cars, as published by the U.S. Department of Labor, excluding the cost of any manufacturer installed options or of any modifications or conversions that were made by other persons following the original assembly of the vehicle by

Permittee shall—means any person, partnership, corporation, firm, joint venture, limited liability company, association, organization, and any other entity holding a permit issued pursuant to this article.

Sightseeing or charter service shall—means the transporting of passengers by charter between points within the city and between such points and points without the city upon a route including stops at various points of public interest and providing for eventual discharge at the place at which such passengers are picked up. From such definition is specifically excluded the discharge of passengers from points other than those at which they are picked up.

Sightseeing or charter vehicle shall—means a motor vehicle with a manufacturer's seating capacity of 16 persons or more, including the driver, manufactured, certified, and operated in compliance with the minimum requirements of the Federal Motor Vehicle Safety Standards and Regulations, as amended.

Secs. 46-192—46-199. Reserved.

DIVISION 2. SIGHTSEEING AND CHARTER SERVICES

Sec. 46-200. Scope.

The provisions of this division shall apply to charter and sightseeing services and permittees thereof.

Sec. 46-201. Permit and license required.

It shall be unlawful for any person to operate a sightseeing or charter service, or to drive or cause to be operated or driven any sightseeing motor vehicle or charter service motor vehicle upon and over the streets of the city, until such time as the director has approved and issued a permit for such service and a license.

Sec. 46-202. Permit term; operations authorized.

(a) A permit shall be issued for a term of ten years and shall authorize the permittee to operate in a manner under which persons picked up at various points are taken upon a route including stops at various points of public interest and eventually discharged at the place at which they were picked up. Proof that persons carried by a permittee are discharged and leave the motor vehicle at points other than those at which they are picked up shall constitute grounds for termination of the permit under the provisions hereinafter stated for notice and hearing; provided, that should a permittee have scheduled routes under which "pickups" are made at several points within the business district of the city, then passengers who are picked up and carried over an entire sightseeing route of not less than ten miles in length may be discharged at any of the scheduled discharge points within the business district without constituting a violation of the terms of the permit.

(b) A permit for a charter and sightseeing service shall also authorize the operation of a charter service between points within the city and between such points and points without the city; provided however, that in operating motor vehicles for charter service from motels and hotels to transport visitors to and from various sporting events:

- (1) A permittee shall not advertise locally except by use of posters or notices in said motels and hotels; and
- (2) A permittee shall wait for the passengers and bring them back to the point of origin.

~~Sec. 46-203. License term; issuance procedure.~~

~~A license shall be valid for two years from the date of issuance. Licenses shall be issued in a manner consistent with the requirements established in division 3 of article II of this chapter regarding the issuance of taxicab driver's licenses.~~

Sec. 46-204. Permit application; issuance procedure.

(a) An application for a permit shall be submitted on forms to be furnished by the director, and the applicant shall furnish the following information with each application, which shall be sworn to before a notary public or conform to minimum state law requirements for unsworn declarations:

- (1) The name and form of business under which the service will be operated. (If a partnership or corporation, a copy of the partnership agreement or articles of incorporation must be attached.)
- (2) The name, mailing address, and street address, if different, of the applicant's agent for service of legal process (which information a permittee shall keep always be kept current).
- (3) A schedule showing the model, manufacturer model year date, type, make, vehicle identification number, license plate number, and mileage of each motor vehicle that the applicant proposes desires to place into operation and a statement as to the legal ownership of each vehicle.
- (4) A description of the sightseeing tours that the applicant proposes to furnish and a schedule of the routes proposed to be followed.
- (5) Evidence that the applicant has a place of business within the metropolitan area from which the applicant's sightseeing or charter service will be operated and that such use of the location is in compliance with any applicable deed restrictions.

(b) An applicant for a permit under this division must:

- (1) Be not less than 18 years of age ~~and of good moral character.~~
- (2) Not have been convicted of an applicable offense specified in section 1-10 of this Code unless the license is granted notwithstanding the conviction pursuant to section 1-9 of this Code.
- (3) Be able to read and write the English language.
- (4) Not have had a license or permit issued under this chapter denied, revoked or refused for renewal within the one-year period preceding the date of filing of the application.

(c) If the applicant is a partnership or association, the partners or associates, or if the applicant is a corporation, each person who is either an officer or, ~~a director or a holder of ten percent or more of the outstanding shares,~~ shall be required to join in filing the application and all of the ~~herein set forth~~ provisions and requirements of this chapter applicable to individual applicants shall apply to and be required of each ~~such~~ partner, associate, officer or, director, ~~or shareholder.~~ Failure of any of ~~thesethe~~ persons heretofore mentioned to meet ~~thesuch~~ requirements shall be grounds to deny the application of the partnership, association or corporation.

(d) Any change in associates, partners, officers, or directors, ~~or shareholders~~ of the business entity holding a permit ~~issued by the city~~ shall require a permit amendment and must be reported to the director within ten days after the change. The new associates, partners, officers, or directors, ~~or shareholders~~ shall complete and file the forms and supply the information required of applicants for permits. The director shall consider the information supplied regarding the new or proposed associate, partner, member or officer, or director of the permittee, and if this examination discloses that the new or proposed person possesses the qualifications of a person to whom a permit would be issued under the terms of this article, he shall change his records to reflect the new associate, partner, member or officer, or director of the permittee.

(e) Except as provided in section 46-218 of this Code, the addition, removal or substitution of any vehicle with a replacement vehicle operated pursuant to a permit shall require a permit amendment.

(f) The director shall initially review each application for issuance or amendment of a permit to determine whether the application is complete and all required information has been provided. If not, the director shall return the application to the applicant with a statement of deficiencies.

(g) The director shall review complete applications to determine whether the applicant has met all applicable requirements of this article and of other applicable provisions, including section 1-10 of this Code. If so, the director shall issue the permit

without conducting a hearing. If, based upon the review, the director determines that one or more requirements may not have been met, the director shall afford the applicant the right to a hearing before acting on the application.

(h) Prior to the denial of an application, the director shall notify the applicant of the proposed grounds for denial and that the applicant may, within 15 business days following the date of deposit of the notice in the mail, request a hearing. Where the grounds are based in whole or in part upon section 1-10 of this Code, the hearing shall conform to the requirements of section 1-9 of this Code with respect to those grounds.

(i) In the event that the director approves the permit, issuance shall be subject to compliance with this article, including, but not limited to, payment of any required fees, and submission of proof of insurance.

(j) A permit does not entitle the permittee to act as the driver of covered vehicles. A separate license is required for that purpose pursuant to the applicable provisions concerning the issuance of vehicle for hire driver licenses contained in this chapter.

Sec. 46-205. Vehicle certification decals.

Upon the director's issuance of a permit, the permittee shall furnish to the director a list of the vehicles that he proposes to operate, describing them in such detail as the director may require. The permittee shall furnish to the director similar descriptions and details when he proposes to place any additional vehicle in operation or withdraw from operation any vehicle theretofore operated. The director shall determine the number of vehicles a permittee shall be authorized to operate at any one time. The director shall devise a system of identification for ~~authorized~~ such vehicles and prescribe and issue a certification decal identifying each vehicle as one lawfully operated under the permit.

~~Sec. 46-206. Waiting period before being eligible to reapply.~~

~~A person whose application for a permit or license has been denied or whose current permit or license has been revoked or refused for renewal and such action has become final shall be required to wait a period of one year from the date the denial or revocation became final before becoming eligible to reapply for a permit or license.~~

Sec. 46-207. Insurance requirements.

(a) Every vehicle operated under a permit issued pursuant to the provisions of this division shall at all times be covered by commercial automobile liability insurance meeting all requirements of Chapter 643 of the Texas Transportation Code.

(b) Policies issued under this section shall contain provisions for a continuing liability thereon up to the full amount thereof, notwithstanding any recovery thereon, and for the giving of 30 days written notice to the director before cancellation of such policy is effective. In the event that a policy terminates or is cancelled without replacement,

then each permit to which it pertains shall be suspended, and all sightseeing and charter service vehicles within such coverage may not be operated. If a proper replacement policy is not provided to the director on or before the tenth business day after the date of termination or cancellation of the policy, the permit shall automatically terminate.

(c) The insurance required in subsection (a) shall be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of coverage shall be accepted only in the authorized form approved by the Texas Department of Insurance for that purpose.

Sec. 46-208. Maintenance and operation of vehicles; qualifications of licensees.

(a) ~~A~~ No permittee shall not permit or cause to be driven, ~~and~~ ~~nor~~ shall not any licensee drive, on any street of the city any vehicle which does not comply with all of the provisions of this article. It shall be a violation of this article on the part of any permittee and licensee to fail to comply ~~and~~ to fail to require compliance with any of the provisions of this article.

(b) All vehicles operating as a sightseeing or charter service shall be maintained in a safe and sanitary condition and shall be thoroughly cleaned and disinfected at least once in each 24-hour period.

(c) All vehicles operating as a sightseeing or charter service shall be equipped with rear vision mirrors, a double windshield wiper, a partition or other guard to keep passengers from standing to the left of the driver, proper headlights and taillights in good working condition, which shall be lit from one-half hour after sunset to one-half hour before sunrise, and four-wheel hydraulic or air brakes in good working condition.

(d) Every vehicle operating as a sightseeing or charter service shall have posted in a conspicuous place in the vehicle the route to be traveled thereby and a schedule of the rates of fares and shall have painted on the front and on the rear thereof, or on both sides, a serial number indicating the sightseeing or charter service vehicle's route in accordance with the classification and enumeration of routes as the director may devise and order.

(e) The director, ~~or his duly appointed representative,~~ may at any time make tests and inspections of all vehicles operating as a sightseeing or charter service, and if the director finds, as a result of such inspection, any vehicle is found to be in an unsatisfactory condition, he shall notify the owner or operator thereof ~~shall be notified~~ of the defects observed. The owner or operator ~~and~~ shall immediately correct all defectssame to the satisfaction of the director. If the director finds any sightseeing or charter service vehicle to be unfit or unsafe for the carriage of passengers, he shall forthwith notify the operator of the sightseeing or charter service and thesuch operator shall not thereafter cause or permit thesuch vehicle to be operated on any street of the city until it has been made safe for the carriage of passengers. The director and any

employee whom he may designate to the duty of inspection of sightseeing or charter service vehicles shall be given free and ready access to all sightseeing or charter service vehicles. Proof of a valid state inspection in the last six months will suffice for the purposes of this subsection in determining that the sightseeing and charter vehicle is fit and safe for the carriage of passengers.

(f) Licensees shall not smoke or use tobacco during the time they are driving vehicles that are operating as a sightseeing or charter service.

(g) ~~AN~~ licensee not shall drive for more than 12 hours in any consecutive 24-hour period and ~~a~~ permittee shall not permit or cause a licensee to drive a vehicle operating as a sightseeing or charter service more than 12 hours in any consecutive 24-hour period.

(h) The doors of a vehicle operated as a sightseeing or charter service shall be securely closed at all times while the vehicle is in motion.

(i) Passengers of a sightseeing or charter service shall not be picked up or discharged in the traveled portion of any street. Licensees shall pull the vehicle to the curb and pick up and discharge the passengers on the side of the vehicle immediately against the curb.

(j) ~~AN~~ licensee shall not permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, ~~or~~ shall any licensee permit any passenger to stand in such a position that the driver's vision forward or to the right front or left is blocked.

Sec. 46-209. Schedule of fares.

Upon being issued a permit, a permittee shall file with the director a complete schedule of fares to be charged. In the event any changes are made in ~~thesuch~~ fares, the permittee shall file ~~thesuch~~ changes with the director not later than 30 days before the effective date of ~~thesuch~~ changes.

Sec. 46-210. Routes and schedules.

Permittees shall operate sightseeing and charter service motor vehicles only over and along routes and schedules filed with and approved by the director. The permittee shall submit all proposed routes and schedules for review and approval by the director. Routes and schedules may be amended from time to time. Routes shall not be exclusive.

Sec. 46-211. Annual permit fee.

(a) *Fees.* The annual fee for a permit under this division for each sightseeing or charter vehicle is stated for this provision in the city fee schedule and is payable to the department of administration and regulatory affairs in two installments on or before

January 1st and June 1st of each calendar year in amounts prescribed in the city fee schedule. In the event the permit is issued for a period of time less than one year, the fee shall be prorated, payable at the rate stated for this provision in the city fee schedule for each month or fraction thereof remaining in the calendar year, not to exceed the full annual fee. The reissuance of each certification decal that is lost, mutilated, or otherwise rendered unusable shall be provided only upon reinspection of the sightseeing or charter service vehicle.

(b) *Refunds.* Within 90 days of the expiration of any calendar year a permittee may apply to the director for a refund of a portion of its permit fees if the permit fees paid for the previous calendar year exceed two percent of the permittee's gross receipts. ~~The permittee shall make a refund application shall be made~~ on the form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the permittee in a form approved by the director. The application, as well as any supplementary material required by the director, must be accompanied by an affidavit signed and sworn to by or on behalf of the applicant or conform to minimum state law requirements for unsworn declarations. The applicant shall state that the application (or supplement) and all attachments thereto are correct and complete and do not omit any material item and that the applicant either: (i) has personal knowledge of each matter affirmed or declared, or (ii) has conducted a thorough investigation into each matter affirmed or declared. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the permittee the amount by which the total permit fees paid for the previous calendar year exceed two percent of the permittee's total gross receipts for the previous calendar year; or
- (2) Deny the refund.

(c) *Additional to other required fees.* The fees established in this section shall be payable in addition to any other applicable fees imposed by this Code or other ordinances of the city.

Sec. 46-212. Statements, reports, records.

Permittees shall furnish and render to the director ~~such~~ statements and reports incident to the operation of a sightseeing or charter service ~~required by authorized~~ as the director, including but not limited to records of ~~the~~ ~~such~~ operation sufficient to show the amount of ~~his~~ gross receipts during any and every monthly period.

Secs. 46-213—46-215. Reserved.

Sec. 46-216. Transfer of license.

~~A permit may not be transferred transfer of a sightseeing and charter service license issued shall be effective unless it be in writing, in duplicate, signed by the~~

~~transferor and by the transferee, stating the true consideration of such transfer, accompanied by the transferee's application substantially in the form prescribed in section 46-203 of this Code, which shall be filed with the city secretary, and also accompanied by the certificate of the director that he has found and determined that the public necessity and convenience will be justified and served by such transfer. No transfer of a license shall be effective until the transferee has complied in all respects with the terms of this division.~~

Sec. 46-217. Reserved.

Sec. 46-218. Temporary certification decals.

In addition to the vehicles regularly operated by a permittee, the permittee may place one or more vehicles into use on a temporary basis from time to time to meet seasonal or unexpected needs in accordance with this subsection. Temporary certification decals shall be issued for a term of 30 consecutive calendar days to commence on the date of issuance at the fee stated for this provision in the city fee schedule per vehicle, per certification decal, upon provision to the director of proof of the identity of the vehicle to be used including verification that the vehicle is in compliance with all requirements of this division including proof that it is insured as required in section 46-238 of this Code and has been inspected and approved for use as provided in section 46-236 of this Code within six months preceding the date the certification decal is issued. For vehicles placed in service on a temporary basis that are less than or equal to two years of age (manufacturer's model year date counted as first full year), proof of a valid state inspection will suffice for the requirement of section 46-236 of this Code. If the permittee's insurance policy on file with the director pursuant to section 46-238 of this Code also covers the vehicles that will be placed in service on a temporary basis, no additional proof of insurance is required.

Secs. 46-219—46-229. Reserved.

DIVISION 3. CHAUFFEURED LIMOUSINE SERVICE

Sec. 46-230. Scope.

The provisions of this division shall apply to chauffeured limousine services and permittees thereof.

Sec. 46-231. Permit required.

(a) It shall be unlawful for any person to operate a chauffeured limousine service or to offer or agree to provide chauffeured limousine service, or to rent or lease motor vehicles, including the service of a driver, for chauffeured limousine service in the City of Houston, unless the person holds a current and valid chauffeured limousine service permit that has been issued under this division.

(b) It is an affirmative defense to prosecution under this section that the chauffeured limousine is not being operated for the purpose of serving any passenger in exchange for consideration or the trip originated in a jurisdiction outside the city in which the chauffeured limousine is operated in compliance with all applicable laws. The provisions of this section shall not be construed to authorize a chauffeured limousine from another jurisdiction to originate any passenger service trip within the city.

Sec. 46-232. Annual permit fee; other fees and taxes to be paid.

(a) *Required.* The annual fee for a permit under this division for each limousine is stated for this provision in the city fee schedule and is payable to the department of administration and regulatory affairs in two installments on or before January 1st and June 1st of each calendar year in amounts prescribed in the city fee schedule. In the event the permit is issued for a period of time less than one year, the fee shall be prorated, payable at the rate state for this provision in the city fee schedule for each month or fraction thereof remaining in the calendar year, not to exceed the full amount of the annual fee. The reissuance of any certification decal that is lost, mutilated, or otherwise rendered unusable shall be provided only upon reinspection of the limousine. ~~Failure to pay the permit fees when due shall result in revocation, as provided in section 46-244(d) of this Code.~~

(b) *Refunds.* Within 90 days of the expiration of any calendar year a permittee may apply to the director for a refund of a portion of its permit fees if the permit fees paid for the previous calendar year exceed two percent of the permittee's gross receipts. ~~The permittee shall make a refund application shall be made on the form promulgated by the director.~~ The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the permittee in a form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by or on behalf of the applicant or conform to minimum state law requirements for unsworn declarations. The applicant shall state that the application (or supplement) and all attachments thereto are correct and complete and do not omit any material item and that the applicant either: (i) has personal knowledge of each matter affirmed or declared, or (ii) has conducted a thorough investigation into each matter affirmed or declared. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the permittee the amount by which the total permit fees paid for the previous calendar year exceed two percent of the permittee's total gross receipts for the previous calendar year; or
- (2) Deny the refund.

(c) *Additional fees.* The fees established in this section shall be payable in addition to any other applicable fees imposed by this Code or other ordinances of the city.

Sec. 46-233. Application for permit—Form.

(a) An application for a permit shall be submitted on forms to be furnished by the director and the applicant shall furnish the following information with each application, which shall be sworn to before a notary public or conform to minimum state law requirements for unsworn declarations:

- (1) The name and form of business under which the service will be operated (If a partnership or corporation, a copy of the partnership agreement or articles of incorporation must be attached.);
- (2) The name, mailing address, and street address, if different, of the applicant's agent for service of legal process (which information a permittee shall ~~keep~~always be kept current);
- (3) A schedule showing the model, manufacturer model year date, type, make, vehicle identification number, license plate number, and mileage of each motor vehicle, and a statement as to the legal ownership of each vehicle proposed to be placed into operation as a chauffeured limousine;
- (4) Documentary evidence from an insurance company indicating a willingness to provide insurance or proof of current coverage of insurance as required in section 46-238 of this Code; and
- (5) Any additional information as requested by the director for the administration of this division.

~~(b) An applicant for a license under this division must:~~

- ~~(1) Be not less than 18 years of age and of good moral character.~~
- ~~(2) Not have been convicted of an applicable offense specified in section 1-10 of this Code unless the license is granted notwithstanding the conviction pursuant to section 1-9 of this Code.~~
- ~~(3) Not have had a permit issued under this division denied, revoked, or not renewed for cause by the city within the one-year period preceding the date of filing the application.~~
- ~~(4) Be able to read and write the English language.~~

~~————(c) If the applicant is a partnership or association, the partners or associates, or if the applicant is a corporation, each person who is either an officer or, a director ~~or~~ a holder of ten percent or more of the outstanding shares, shall be required to join in filing the application and all of the ~~herein set forth~~ provisions and requirements of this chapter applicable to individual applicants shall apply to and be required of each ~~such~~ partner, associate, officer, or director, ~~or shareholder~~. Failure of any of ~~these~~ the persons~~

~~heretofore mentioned~~ to meet ~~thesuch~~ requirements shall be grounds to deny the application of the partnership, association or corporation.

~~(cd)~~ Any change in associates, partners, officers, directors, or shareholders of the business entity holding a permit issued by the city shall require a ~~permi~~license amendment and must be reported to the director within ten days after the change. The new associates, partners, officers, directors, or shareholders shall complete and file the forms and supply the information required of applicants for permits. The director shall consider the information supplied regarding the new or proposed associate, partner, member or officer, or director of the permittee, and if this examination discloses that the new or proposed person possesses the qualifications of a person to whom a permit would be issued under the terms of this article, ~~the director~~he shall change his records to reflect the new associate, partner, member or officer, or director of the permittee.

~~(de)~~ Except as provided in section 46-235(b) of this Code, the addition, removal, or substitution of any vehicle with a replacement vehicle pursuant to a permit shall require a permit amendment.

~~(ef)~~ Each permittee is required to maintain and operate at all times as part of his city authorized vehicle fleet of either:

- ~~(1)~~ Not less than three chauffeured limousines, including at least one extended body type vehicle; or
- ~~(2)~~ Not less than four chauffeured limousines.

~~The provisions of this requirement shall not extend to renewals or amendments of permits that were originally issued on the basis of applications that were filed on or before January 1, 2013; provided however, the revocation of a permit operated pursuant to this special exemption shall result in the permittee's forfeiture of the privilege of operating pursuant thereto and shall require the submission of a new application and compliance with the minimum fleet requirements prescribed in this subsection should the applicant desire to provide chauffeured limousine services in the city.~~

~~(g)(1)~~ In addition to any other information required to be provided under this section, each applicant for issuance, renewal, or amendment of a permit shall be required to advise the director in writing upon the application form whether the applicant desires privileges to operate the limousine(s) covered by the permit upon the property of city airports.

- ~~(2)~~ Each permittee who desires privileges to operate upon city airports is required to maintain and operate at all times under the permit a city authorized fleet of either:
 - ~~a.~~ Not less than three chauffeured limousines, including at least one extended body type vehicle, or

~~b. Not less than four chauffeured limousines.~~

~~The provisions of this requirement shall not extend to renewals or amendments of permits that were originally issued on the basis of applications that were filed on or before November 1, 2000; provided however, the revocation of a permit operated pursuant to this special exemption shall result in the permittee's forfeiture of the privilege of operating pursuant thereto and shall require the submission of a new application and compliance with the minimum fleet requirements prescribed in this subsection should the applicant desire to provide chauffeured limousine services upon city airports.~~

(f3) The director shall cause each permit that is issued, renewed, or amended and any certification decals or other evidence of authorization to operate a chauffeured limousine to indicate whether or not the permittee and vehicles have city airport privileges under this subsection.

(g4) It shall be unlawful for any person to operate or cause to be operated any chauffeured limousine that does not have city airport privileges under this subsection upon any city owned or operated airport. Additionally, violation of this subsection shall be grounds for revocation or suspension of the offender's permit and license.

Sec. 46-234. Permit issuance procedure.

(a) The director shall initially review each application for issuance or amendment of a permit to determine whether the application is complete and all required information has been provided. If not, the director shall return the application ~~to shall be returned, and the applicant with a statement of deficiencies shall be so advised.~~

(b) The director shall review completed applications to determine whether the applicant has met all applicable requirements of this article and of other applicable provisions, including section 1-10 of this Code. If so, the director shall issue the permit without conducting a hearing. If, based upon the review, the director determines that one or more requirements may not have been met, the director shall afford the applicant the right to a hearing before acting on the application.

(c) Prior to the denial of an application, the director shall afford the applicant notice of the proposed grounds for denial and that the applicant may, within 15 business ~~thirty~~ days following the date of deposit of the notice in the mail request a hearing. Where the grounds are based in whole or in part upon section 1-10 of this Code, the hearing shall conform to the requirements of section 1-9 of this Code with respect to those grounds.

(d) In the event that the director approves the permit ~~is approved~~, issuance shall be subject to compliance with this article, including, but not limited to, payment of any required fees, inspection of vehicles to be utilized, and submission of proof of insurance.

(e) A permit does not entitle the permittee to act as the driver of covered vehicles. A separate license is required for that purpose pursuant to the applicable provisions concerning the issuance of vehicle for hire driver's licenses contained in this chapter as provided in section 46-239 of this Code.

(f) No chauffeured limousine for which a permit has been issued under this article shall be operated by anyone except the permittee or an employee of the permittee or other person who may be operating the vehicle under a written agreement specifically incorporating therein any rules, regulations, and conditions as may be reasonably required by the director to ensure compliance with applicable laws and regulations. The permittee shall be responsible for anyone operating under his permit whether ~~the operator~~ is an employee or other person operating under a written agreement. Any person driving or operating a chauffeured limousine upon the streets or other public property of the city is presumed to be an employee of the permittee or to have entered into a written agreement with the permittee.

Sec. 46-235. Permit—Term; renewal; number of vehicles; identification certificate.

(a) Permits shall be issued for a term of five years. Permittees desiring to have reissuance of their permit shall, at least 60 days prior to the expiration of the permit, file with the director a written application for a renewal of their permit. Except as otherwise expressly stated, renewals shall be subject to the same requirements set forth in this article for issuance of new permits. A permit shall be valid only for the vehicles listed thereon and any vehicles reported under an amendment to the application filed pursuant to section 46-233 of the Code, which vehicles must also pass inspection under section 46-236 of the Code.

(b) In addition to the vehicles regularly operated by a permittee, the permittee may place one or more vehicles into use on a temporary basis from time to time to meet seasonal or unexpected needs in accordance with this subsection. The director shall issue temporary certification decals shall be issued for a term of 30 consecutive calendar days to commence on the date of issuance at the fee stated for this provision in the city fee schedule per vehicle, per certification decal, upon the permittee's provision to the director of proof of the identity of the vehicle to be used. Proof of identity shall include~~including~~ verification that the vehicle is in compliance with all requirements of this division ~~and including~~ proof that it is insured as required in section 46-238 of this Code and has been inspected and approved for use as provided in section 46-236 of this Code within six months preceding the date the temporary certification decal is issued. ~~For vehicles placed in service on a temporary basis that are less than or equal to two years of age (manufacturer's model year date counted as first full year), proof of a valid state inspection will suffice for the requirement of section 46-236 of this Code. If the permittee's insurance policy on file with the director pursuant to section 46-238 of this Code also covers the vehicles that will be placed in service on a temporary basis, no additional proof of insurance is required.~~

Sec. 46-236. Inspection fee; maintenance equipment.

(a) Each permittee shall cause each limousine operated under his permit to be submitted for inspection by the director from time to time at intervals not exceeding 12 months as more particularly provided in section 46-237 of this Code. The director shall inspect each limousine and determine whether it is in full compliance with the terms of this article. If so, the permittee shall be given an inspection compliance decal for the limousine, which shall be valid for 12 months from the date of its issuance. The inspection compliance decal shall be affixed by the director to the windshield of the vehicle. It shall be unlawful to drive or to cause to be driven any limousine permitted under this division that does not have a current inspection compliance decal affixed by the director.

Each permittee shall pay to the director an inspection fee stated for this provision in the city fee schedule for the inspection services described in this section for each limousine operated pursuant to this division.

(b) All vehicles shall be maintained in a safe and sanitary condition at all times and shall always be maintained in good working condition.

(c) All vehicles shall be air-conditioned and equipped with interior and exterior rearview mirrors, windshield washers and two-speed windshield wipers, proper headlights and taillights that shall be in operation from one-half hour ~~before~~after sunset to one-half hour ~~after~~before sunrise when the limousine is in operation. The inspection shall include, but not be limited to, the following items: Vehicle identification number; date of purchase; foot brakes; ~~parking~~emergency brake, headlights; taillights; brake lights; turn signal lights; license plate lights; horn; two-speed windshield wipers; interior and exterior rear vision mirrors; air conditioner; tires; muffler and tail pipe; condition of the body; condition of the fenders; condition of the paint; condition of the interior; current state inspection sticker; state license plates; speedometer readings; mileage; steering. Brakes, seat belts and all other safety, noise and antipollution requirements specified by the United States Government and the state shall be complied with at all times. The brakes shall always be kept in good working condition.

Sec. 46-237. Tests and inspections of limousine vehicles.

(a) The director may at any time, and shall at least once each year, make tests and inspections of all limousine vehicles then in operation to assure that they are in compliance with the terms of section 46-236 of this Code, ~~and if upon as a result of the inspection the director finds aer test any limousine vehicle is found not in complianceto comply with any of the requirements therein set out, he shall notify the permittee shall be notified of the defects observed. The permitteeand he shall immediately correct the defectssame to the satisfaction of the director.~~ Any vehicle that is the subject of the notification shall not be operated on any street of the city until it has been reinspected and determined to be in compliance with the requirements of inspection. The director shall be given access to the vehicles at all reasonable times.

Failure to submit a vehicle requested for inspection by the director shall be cause for suspension of the operation of the vehicle until such time the vehicle is submitted for inspection and it is determined that the vehicle is in compliance with the terms of section 46-236 of this Code.

(b) Additionally, a licensee or permittee may drive or cause to be driven a sedan-type luxury motor vehicle or sport utility vehicle operated as a chauffeured limousine for an additional one-year period beyond the age limitations prescribed in subitems (a) and (c), respectively, of the definition of chauffeured limousine in section 46-191 of this Code provided:

- (1) The licensee or permittee submits the sedan-type luxury motor vehicle or sport utility vehicle for inspection at a location authorized and identified by the director prior to the expiration of the permit issued authorizing the operation of the chauffeured limousine; and
- (2) The vehicle is determined to be in compliance with the provisions of section 46-236 of this Code and any other conditions of operation prescribed by the director.

Sec. 46-238. Insurance requirements.

(a) Notwithstanding any other provision of this article to the contrary, no permit shall become effective nor shall chauffeured limousine services be provided until the person to whom the permit is granted has filed with the director the requisite proof of insurance ~~executed~~ issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies, ~~an insurance company duly and legally authorized to do business in this state~~ insuring the general public against any loss or damage that may result to any person or property from the operation of chauffeured limousine vehicles covered by his permit.

(b) The insurance required in subsection (a) shall be in a form of commercial automobile liability coverage with limits of not less than ~~\$1,000,000.00~~ ~~500,000.00~~ combined single limit per ~~accident~~ ~~occurrence~~, or limits of not less than ~~\$250,000.00~~ for bodily injury to one person or the death of one person, and ~~\$500,000.00~~ for bodily injury to or death of all persons injured or killed in any one accident and ~~\$100,000.00~~ for property damage.

(c) The insurance shall be for the protection of the passengers of limousine vehicles as well as for the general public, ~~but shall not be required to cover personal injuries sustained by the servants, agents or employees of the permittee.~~ The required insurance shall name the city as an additional insured. The policies issued under this section shall contain a provision for a continuing liability thereon up to the full amount thereof, notwithstanding any recovery thereon, and a provision requiring that 30 days written notice shall be given the city before cancellation of the policy is effective.

(d) If any insurer desires to be released from any insurance policy filed under this section, he may do so by giving written notice to the director at least 30 days before he desires to be released from liability. The director shall thereupon give written notice to the permittee and demand that such permittee furnish evidence of new insurance obtained before the expiration of the policy.

(e) If any policy is cancelled as herein provided, or expires, and no new policy is filed by the permittee before the cancellation or expiration of the original insurance, the permit shall automatically be suspended, and the permittee shall discontinue the operation of the affected vehicles within the city. If a proper replacement policy is not provided to the director on or before the tenth business day after the date of termination or cancellation of the policy, the license shall automatically terminate.

~~(f) The insurance required in this section shall be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Proof of coverage shall be accepted only in the authorized form approved by the Texas Department of Insurance for that purpose.~~

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

(a) ~~A~~ No person shall not operate a limousine upon the streets of the city unless he holds a current and valid license.

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

~~(c) A licensee shall not drive for more than 12 hours in any consecutive 24-hour period and a permittee shall not permit or cause a licensee to drive a chauffeured limousine more than 12 hours in any consecutive 24-hour period. Licenses shall be issued in all respects on the same basis and subject to all of the same requirements established in division 3 of article II of this chapter for the issuance of taxicab driver licenses.~~

~~(d) Each licensee shall, while operating a permittee's limousine, wear business attire (a dress shirt and matching slacks, dress, or skirt) or a chauffeur's uniform with a dress shirt or blouse and, for men, an appropriately tied neck tie. Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director pursuant to section 46-192 of this Code.~~

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

Sec. 46-240. Written or electronic vehicle rental agreements.

(a) A written or electronic vehicle rental agreement shall be entered into by the permittee and any person renting or leasing any chauffeured limousine. All vehicle rental agreements shall include, among other things: the name(s) of the permittee and the name of the assigned licensee; the name(s) of the passenger(s); the date and time of hiring; the scheduled pickup ~~and drop-off~~ addresses or locations; the date and time of release of the vehicle; and the rates applicable to the vehicle. In addition to the foregoing information, all vehicle rental agreements for service originating at city airports shall also include the airline name, flight number, and scheduled date and time of arrival. The permittee shall deliver a copy of the vehicle rental agreement ~~shall be delivered~~ to the renting or leasing party at the time the vehicle is released or, if a monthly statement is submitted, at that time. A completed copy of the bill submitted showing the total fare charged and received shall be retained by permittee for a period of two years from the date of contract. Upon request, the permittee shall make available to the director ~~or his designated agent~~ completed copies of the vehicle rental agreements retained within the two-year period.

(b) A copy of the vehicle rental agreement form shall be filed with the director who shall approve the form before the permittee may operate his vehicles under this article.

Sec. 46-241. Operation from permittee's usual place of business, etc.

(a) A permittee shall operate only from his usual place of business, ~~and his vehicles shall be dispatched therefrom~~; provided, however, if any permittee has a written agreement authorizing the permittee to operate from a hotel or motel, that place shall be considered a usual place of business when a copy of the agreement is filed with the director.

(b) The permittee shall not operate out of a house or store or maintain any of his vehicles at any place of public accommodation unless the limousine is at that time hired. It shall be the duty of each licensee to present a copy of the rental agreement required under section 46-240 of this Code to any administration and regulatory affairs department employee or police officer upon request to evidence compliance with this section. If the licensee fails to produce a rental agreement evidencing compliance it shall be presumed in any prosecution under this subsection that the licensee's presence at the public place of accommodation was unlawful.

(c) The licensee shall not approach potential customers in any public place for the purpose of soliciting their business, ~~and no advertising sign shall be displayed inside the limousine at any time~~; and the only advertising that may be displayed outside the

limousine shall be limited to the name and telephone number of the permittee on the front and rear license plate frames in individual letters not to exceed one inch in ~~length~~height and width with the cumulative size not to exceed beyond one inch the length and width of the license plates.

~~—— (d) All mobile dispatch services or any person acting in concert therewith shall operate only on a pre-arranged vehicle for hire transportation service basis in providing chauffeured limousine services.~~

Sec. 46-242. Operation upon city airport property.

No licensee shall operate a limousine upon the property of any city airport except for the purpose of discharging passengers whose trips originated elsewhere or for the purpose of rendering service to deplaning passengers who wish to be transported from the airports. No licensee shall park or stand his limousine upon airport property except for the purpose of actually loading or unloading passengers in accordance with a rental agreement executed under section 46-240 of this Code, nor shall any licensee enter or remain upon airport property unless his limousine has permanently affixed on the windshield an automatic vehicle identification tag in accordance with policies and procedures promulgated by the director of aviation. It shall be the duty of each licensee to present a copy of the rental agreement instrument required under section 46-240 of this Code to any aviation department employee, administration and regulatory affairs department employee, or peace officer upon request to evidence compliance with this section. If the licensee fails to produce the rental agreement evidencing compliance, it shall be presumed in any prosecution under this subsection that the licensee's presence upon the airport property was unlawful.

Sec. 46-243. Schedule of fares.

~~—— (a) The minimum fare of \$70.00 shall be charged the person renting or leasing the chauffeured limousine service, and if the limousine is under hire for two hours or less, this sum shall be treated as the rental for such period of hire. For the third hour, and all hours thereafter, the minimum fare shall be not less than \$15.00 per hour. Fares shall be pro-rated for all times in excess of two hours. The minimum fares specified in this section may include obligatory gratuity, tolls, parking fees and fuel surcharges. Provided further, per capita charges are specifically prohibited.~~

~~(b) Permittees shall file with the director a schedule of fares or rates to be charged. Permittees shall advise the director of any change in its schedule of fares or rates within five calendar days of the change on a form prescribed by the director, which schedule must be approved or denied within 15 days after receipt by the director. Failure of the director to act on the request shall be deemed to be a denial by him.~~

~~(c) It shall be unlawful for any person to operate a chauffeured limousine service, or to offer or agree to provide chauffeured limousine service, or to rent or lease motor vehicles, including the service of a driver, for chauffeured limousine service, for less than the minimum fare prescribed in subsection (a) of this section.~~

~~Sec. 46-244. Waiting period before becoming eligible to reapply.~~

~~— A person whose application for a permit or license has been denied or whose current permit or license has been revoked or refused for renewal and such action has become final shall be required to wait period of one year from the date the denial or revocation became final before becoming eligible to reapply for a permit or license.~~

Sec. 46-245. Transfer of permit or license.

A permit or license may not be transferred.

~~Sec. 46-246. Inspection—After accident.~~

~~— A limousine involved in an accident shall not thereafter be used in limousine operations until it has been inspected by the director. If the director's inspection reveals that the limousine has been damaged to an extent that it is not in a reasonably good operating condition from the standpoint of the safety, health and comfort of passengers, or that the limousine has suffered damage in excess of \$1,000.00, the limousine shall be ordered out of service until the director has authorized the return of the limousine to limousine operations, which authorization shall not be given until proper repairs or corrections have been made.~~

Secs. 46-2467—46-275. Reserved.

ARTICLE V. SCHOOL VEHICLES

DIVISION 1. GENERALLY

Sec. 46-276. Definitions.

When used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

License means a school vehicle ~~service-driver's license issued pursuant to division 2 of article I of this chapter~~article.

Licensee means any person in physical control of a school vehicle who is the holder of a current and valid school vehicle driver's license ~~issued pursuant to this article~~.

Permit means authorization to operate a school vehicle ~~service~~ pursuant to this article.

Permittee means any person, partnership, corporation, firm, joint venture, limited liability company, association, organization and any other entity holding a permit issued pursuant to this article.

School means a public or private facility offering any one or more of: (i) day care or preschool programs, (ii) kindergarten, (iii) regular grades 1 through 12 or (iv) alternative programs for students under 21 years of age who have physical or learning disabilities or other special needs. The term also includes governmentally-sponsored job training centers, regardless of the age of persons attending the centers.

School vehicle means any motorized vehicle, whether a conventional sedan, station wagon, van, bus or other type, with a manufacturer's rated seating capacity of not more than 15 passengers, including the driver, that is used for hire to transport students to or from any school that is situated in the city or that is used under the sponsorship of the school to transport students to or from any school-sponsored activity of a school that is situated in the city. The term excludes any vehicle owned or leased by the person who operates the school and operated by that person's employees for the primary purpose of providing transportation to students of the school, and any intrastate or interstate motor bus operating under Texas Department of Transportation or federal licensing jurisdiction.

School vehicle service means the business of transporting passengers for hire by means of a school vehicle. Specifically excluded from this definition are:

- (1) Vehicles used in connection with any phase of a funeral or funeral service;
- (2) Taxicabs, pedicabs, jitneys, sightseeing and charter vehicles, chauffeured limousines, ~~and low speed shuttles,~~ and transportation network vehicles permitted and licensed by the city; and
- (3) Vehicles operating under a contract with the city.

State certificate means a current and valid certificate pursuant to Chapter 14, Part 1, Title 37 of the Texas Administrative Code evidencing that the holder is enrolled in or has completed a driver training course in school bus safety education that has been approved jointly by the Texas Board of Education and the Texas Department of Public Safety. The term additionally means and includes a current and valid driver's license of a class that authorizes the operation of a school vehicle of the largest capacity that the driver will be assigned to drive.

Student means a person who is enrolled in a school.

Sec. 46-277. Reserved.

Sec. 46-278. Article is cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of the other articles of this chapter. No vehicle operated under a license or permit issued under another article of this chapter may be utilized as a school vehicle except by additionally complying with this article.

Secs. 46-279—46-285. Reserved.

DIVISION 2. PERMITS AND LICENSES

Sec. 46-286. Permit and license required.

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

(b) It shall be unlawful for any person to act as a licensee unless the person receives a license and is designated as a licensee on the permit that pertains to that school vehicle. It is a defense to prosecution under this subsection that the vehicle was not being used for the transport of any student at the time of the alleged offense.

Sec. 46-287. Permit and license applications.

Each person desiring to obtain a permit shall make application on forms provided by the director and shall include the information requested by the director for implementation of this article. The director shall initially review each application for issuance or amendment of a permit to determine whether the application is complete and all required information has been provided. If not, the application shall be returned, and the applicant shall be so advised. The application shall be completed by and, if granted, issued in the name of the person who owns the entity that will operate the school vehicles. A nonrefundable application process fee in an amount stated for this provision in the city fee schedule shall be payable upon the filing of each application. Each application shall be accompanied by:

- (1) A list of vehicles proposed to be utilized;
- (2) A list of the licensees proposed to operate pursuant to the permit;
- (3) A copy of each licensee's state certificate; and
- (4) Evidence of compliance with any qualifications established in this article and any other relevant information that may be requested by the director; and-

(5) Evidence that the applicant has a place of business within the metropolitan area from which the applicant's school vehicle service will be operated and that such use of the location is in compliance with any applicable deed restrictions.

(b) Except where otherwise provided in this article, licenses for school vehicles shall be issued in a manner consistent with the requirements established in division 23 of article 11 of this chapter ~~regarding the issuance of taxicab driver's licenses; provided however, compliance with the requirements of items (10) and (11) of section 46-88 of this Code shall not be applicable to an applicant for a license issued pursuant to this article.~~

Sec. 46-288. Review.

(a) Following review of the application, the director shall notify the applicant of intent to issue the permit unless:

- (1) The applicant or any proposed licensee is determined to be unfit in accordance with the criteria of section 1-10 of this Code following a hearing under section 1-9 of this Code;
- (2) The applicant fails to demonstrate that each proposed licensee has a state certificate;
- (3) The applicant, if a natural person, is not yet 18 years old;
- (4) The applicant, or a representative of the applicant who shall be designated as the liaison with the director, is unable to read and write the English language;
- (5) Any information provided in the application was materially incomplete or false; or
- (6) The applicant or any one of the proposed licensees has had a permit or license issued pursuant to this chapter or a school bus license issued by ordinance denied, revoked or refused for renewal by the city within the one-year period preceding the date of filing of the application.

(b) In the event that the application is denied, the applicant shall be given written notice of each reason for the denial. If the application is denied in whole or in part upon the basis of first criterion specified above, the applicant shall be entitled to appeal the decision regarding the first criterion in the manner provided by the applicable state law. If the application is denied in whole or in part on the basis of any of criteria (2) through (6), above, then the applicant may request a hearing regarding the denial under those criteria by submitting a written notice of appeal to the director within 15 business days following the date that notice of the director's decision is deposited in the United States mail, addressed to the applicant. The director shall cause an informal hearing to be

conducted on the matter by a disinterested hearing officer who shall render a decision within 30 business days from the date of the filing of the appeal. In the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the issuance of the permitlicense.

(c) If the application is approved, the actual permit shall not be issued until the applicant has provided proof of vehicle ownership for each school vehicle, caused each school vehicle to be inspected, and provided proof of insurance for each school vehicle as required under sections 46-290, 46-292 and 46-293 of this Code, and has made payment of the annual permit fee prescribed in section 46-289 of this Code.

~~(d) A person whose application for a permit or license has been denied or whose current permit or license has been revoked or refused for renewal and such action has become final shall be required to wait a period of one year from the date the denial or revocation became final before becoming eligible to reapply for a permit or license.~~

Sec. 46-289. Annual permit fee.

(a) There is hereby assessed an annual fee which shall be payable by each permittee on or before November 1 of each year, provided that the director shall alternatively allow the fee to be paid in installments, with ½ due by November 1 and the balance by the following February 1.

(b) The amount of the fee is stated for this provision in the city fee schedule. There shall be no fee for replacement of a vehicle with another vehicle of equivalent capacity. In the event that a permit is issued after March 1, or in the event that an additional vehicle is placed into service after March 1, then an amount equal to ½ of the foregoing fees shall be payable for the balance of the annual fee period

(c) The fee imposed under this section is based upon an estimate of the fee allowed pursuant to section 502.003 of the Texas Transportation Code in the amount of two percent of gross receipts. Any permittee who wishes to do so may keep a record of gross receipts in the manner prescribed by regulation of the director. Within 90 days following the expiration of any permit year (November 1 to October 31 of the following year) a permittee who has kept a record of gross receipts in the prescribed form may apply to the director for a refund of any portion of his total fees paid under this section for the previous permit year that exceeds two percent of the permittee's gross receipts from the operation of all permitted school vehicles. The refund application shall be made on a form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the permittee in the form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by or on behalf of the permittee. The permittee shall state that the application (or supplement) and all attachments thereto are correct and complete and do not omit any material item, and that the permittee either: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter

affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the permittee the amount by which the total fees paid for the previous calendar year exceed two percent of the permittee's total gross receipts for the previous calendar year; or
- (2) Deny the refund. If the refund is denied, the director shall give written notice of the reason and, upon request, shall afford the permittee an informal hearing on the matter before a disinterested hearing official.

Sec. 46-290. Vehicle inspection.

(a) It shall be unlawful for any licensee or permittee to drive or cause to be driven any school vehicle while in service for the transportation of any student, unless the vehicle has been inspected as required in this section or inspected and permitted by the Texas Department of Transportation.

(b) Each vehicle shall be inspected before it is initially placed into service and thereafter during October of each year by the director at such location as the director may specify. The director shall approve the vehicle if he determines that:

- (1) The vehicle has current Texas registration and required Texas vehicle inspection stickers for both safety and air quality, if applicable;
- (2) That the vehicle is marked as provided in section 46-301 of this Code;
- (3) The vehicle is in generally sound working condition with no apparent safety-related defects and has a functioning speedometer and odometer;
- (4) The vehicle has a lap or lap/shoulder seat belt for the driver and for each passenger seating space to the extent required by state law; and
- (5) The vehicle has no seats that have been added in excess of the manufacturer's specifications.

(c) Upon the satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the windshield of the vehicle. In any prosecution under this section, it shall be presumed that a vehicle has not been inspected as required in this section unless it has a current and valid certification decal affixed thereto.

(d) Replacement certification decals shall only be provided upon reinspection of the vehicle.

Sec. 46-291. Permit and license terms; licensees and vehicles.

(a) A permit shall be valid for five years from the date of its issuance. A license shall be valid for three years from the date of its issuance. A permit shall be valid only for the operation of the school vehicles designated thereon and operated by the licensees designated in the application, provided that each licensee designated continues to maintain a current and valid state certificate. No permittee shall suffer or permit the driving of any school vehicle while in service for the transportation of any student by a person not designated as a licensee on the application. It shall also be the duty of each permittee to ensure that no licensee continues to operate any school vehicle in the event that the licensee's state certificate expires without renewal or is revoked or suspended by the state.

(b) A permittee may add or delete licensees from those listed on the application by filing an amended application with the director for that purpose, which shall be accompanied by the filing fee stated for this provision in the city fee schedule. A copy of the state certificate shall be furnished for each person proposed to be added as a licensee.

(c) School vehicles may be added to or deleted from a permit by filing an amended application listing the vehicles to be added or deleted and providing proof of insurance and ownership for vehicles to be added as specified in sections 46-292 and 46-293 of this Code. Added vehicles may not be placed into service until they have been inspected and certified in accordance with section 46-290 of this Code. It shall be the duty of the permittee to return the certification decal or remnants thereof for any vehicle that is removed from the permittee's authorized fleet.

Sec. 46-292. Insurance.

(a) Each school vehicle operated by a permittee shall be covered by liability insurance meeting all requirements of Chapter 643 of the Texas Transportation Code.

(b) The policy must be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director. In the event that a policy terminates or is cancelled without replacement, then the permit to which it pertains shall be suspended, and no school vehicle may be operated under the permit. If a proper replacement policy is not provided to the director on or before the tenth day after the date of termination or cancellation of the policy, the permit shall automatically terminate.

(c) Proof of the insurance required in this section shall be accepted only in the authorized form approved by the Texas Department of Insurance for that purpose.

Sec. 46-293. Ownership of vehicles, use of permitslicensees.

(a) Each school vehicle must be registered to or leased on a long-term basis of at least a year to the permittee who operates the vehicle, a copy of which title or lease shall be provided to the director.

(b) It is the express intent of the city council in establishing the requirements of this section to ensure that permiteeslicensees are fully responsible for the maintenance and operation of their school vehicles and to avoid any sort of scheme or artifice in which school vehicles are operated by persons who "lease" permitslicenses or drive vehicles as "independent contractors." The director shall promulgate any regulations that are necessary to carry out this section. Without limitation, the regulations may require that each permitteelicensee make his drivers' payroll records available for inspection and copying by the director to verify compliance.

Sec. 46-294. Transfer, non-exclusive.

(a) A permit is personal to the permittee to whom it is issued and may not be sold, transferred or conveyed by operation of law or otherwise.

(b) Each permit is non-exclusive, and no limits or restrictions shall exist upon the number of school vehicles that may be authorized to operate pursuant to a permit in accordance with all applicable requirements of this article.

Secs. 46-295—46-300. Reserved.

DIVISION 3. OPERATING RULES

Sec. 46-301. Marking of vehicles.

Each school vehicle shall be conspicuously marked on the right and left sides and upon the rear with the name of the permittee and the permittee's local telephone number. The information shall be in characters at least three inches high and having a brush stroke width of at least 3/8 of an inch.

Sec. 46-302. Contracts required.

Each permittee under this article shall have a contract in writing authorizing the carriage of each student who is transported.

Sec. 46-303. Picking up and delivering students.

Each licensee shall ensure that students are loaded and offloaded in a safe manner that does not invite hazardous exposure to traffic or other hazards.

Sec. 46-304. Standees, seat belts.

(a) To the extent required by state law, each school vehicle shall be equipped with a functioning seat belt for each passenger seating space.

(b) It shall be unlawful for a licensee to allow any greater number of persons to be on board the vehicle than the seating capacity of spaces.

(c) It shall be the duty of a licensee to exercise reasonable caution to ensure that the vehicle is not in motion at any time when any person is not seated and does not have his seat belt attached, if seatbelts are required by state law.

Secs. 46-305—46-320. Reserved.

ARTICLE VI. JITNEYS

DIVISION 1. GENERALLY

Sec. 46-321. Definitions.

When used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Jitney means a motorized passenger vehicle having a manufacturer's rated seating capacity of not less than nine nor more than 15 persons including the driver, that is operated upon a closed loop route following specified streets and highways in a specified direction, and is operated without a fixed schedule, carrying passengers from place to place in exchange for a fee.

Jitney service means the business of renting, leasing, or owning a "jitney," as defined in this section, including the services of a driver, for the use and convenience of the general public. Specifically excluded from this definition are the following:

- (1) Vehicles, and the drivers thereof, provided for use in connection with, or attending, or participating in any phase of a funeral or funeral service;
- (2) All taxicabs—Taxicabs, pedicabs, sightseeing and charter vehicles, chauffeured limousines, low speed shuttles, and transportation network vehicles permitted and licensed by the city; and
- (3) All vehicles operating under a contract with the city.
- (4) ~~All sightseeing or charter vehicles licensed by the city.~~

License means a current and valid jitney driver's license issued pursuant to division 2 of article I of this chapter~~under division 2 of this article.~~

Licensee means any person who is the holder of a current and valid jitney driver's license ~~issued under division 2 of this article.~~

Permit means a current and valid jitney permit issued under division 2 of this article.

Permittee means any person, entity, business, partnership, joint venture, or corporation that holds a current and valid permit to operate a jitney service issued under division 2 of this article.

Route means the route for a jitney, as filed with the director in accordance with section 46-340 of this Code.

Sec. 46-322. Reserved.

Sec. 46-323. Article is cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of division 3 of article II of chapter 9 of this Code. The director shall not approve a route that involves the operation of a jitney upon any airport terminal complex unless the permittee has first obtained an airport use permit for use of that jitney upon that route.

Sec. 46-324. Exception for existing permits.

The minimum seating capacity of a jitney prescribed in section 46-321 of this Code shall not apply to any permit issued on or before August 4, 2010. The minimum seating capacity requirements provided in this article shall be immediately applicable to all permittees who received a permit on or before August 4, 2010 upon:

- (1) The expiration of the vehicle age limitations set forth in section 46-353 of this Code; or
- (2) A finding that the permittee has failed to comply with all other applicable provisions of this article resulting in the suspension, revocation, or refusal for renewal of a permit.

Secs. 46-325—46-330. Reserved.

DIVISION 2. LICENSES AND PERMITS

Sec. 46-331. Permit required.

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

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

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

Sec. 46-332. License required.

It shall be unlawful for any person to drive a jitney unless the person holds a license issued pursuant to~~for the driving of a jitney under this chapter~~article.

Sec. 46-333. Fees.

~~(a) There shall be a fee in the amount stated for this provision in the city fee schedule for the issuance of a license.~~

~~_____ (b) There shall be a nonrefundable application processing fee in the amount stated for this provision in the city fee schedule payable upon the filing of each application for one or more permits, regardless of the number of permits requested.~~

(be) In addition to the application processing fee provided in subsection (ab) of this section, an annual permit fee shall be payable in the amount stated for this provision in the city fee schedule for each jitney before it is placed into service and annually thereafter as provided in section 46-336 of this Code.

Sec. 46-334. Permit aApplication.

(a) Each person desiring to obtain ~~a license or one or more permits~~ shall make application on forms provided by the director and shall include the information requested by the director for implementation of this article. The director shall initially review each application for issuance or amendment of a permit to determine whether the application is complete and all required information has been provided. If not, the application shall be returned, and the applicant shall be so advised.

(b) Upon notification by the director, each permit ~~and license~~ applicant (including the proprietor if a proprietorship, each partner if a partnership, or each corporate officer ~~or, director or holder of ten percent or more of the outstanding stock~~ if a corporation) shall present himself at the location identified by the director for identification and fingerprinting to determine if he has been convicted of any applicable offense(s) as set forth in subsection (c) of section 1-10 of this Code. If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested.

Sec. 46-335. Review.

(a) Following review of the application, the director shall provide the applicant with written notification of the approval or denial of the requested permit(s) ~~or license~~.

(b) The submission of any false information or a materially incomplete application, including but not limited to an applicant's failure to provide any other information reasonably requested by the director, shall be immediate grounds for denial of the application. In the event that the application is denied, the applicant shall be given written notice of each reason for the denial. The applicant shall be entitled to appeal the decision if the application is denied in whole or in part upon section 1-10 of this Code. Notice of denial in whole or in part upon section 1-10 of this Code shall comply with section 1-9 of this Code and applicable state laws. If the application is denied in whole or in part on the basis of any other criteria stated in sections 46-331 and 46-332 of this Code, the applicant may request a hearing regarding the denial by submitting a written notice of appeal to the director within 15 business days following the date that notice of the director's decision is deposited in the United States mail, addressed to the applicant. The director shall cause an informal hearing to be conducted on the matter by a disinterested hearing officer who shall render a decision

within 30 business days from the date of the filing of the appeal. In the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the issuance of the license or permit.

(c) If the reason for the denial of an application is curable, the director shall allow the applicant, upon the applicant's request, to submit an amendment within the time allowed in subsection (b) for an appeal, in lieu of filing of an appeal. If the application is again denied, the applicant shall still be entitled to file an appeal within 15 days following the date that notice of the director's decision regarding the amended application is deposited in the United States Mail, addressed to the applicant.

~~(d) If the application is for a license, then the license shall be issued upon the approval of the application.~~ Following approval of an application for one or more permits, the actual permits shall not be issued until the applicant has provided the make, model, manufacturer's seating capacity and vehicle identification number of each jitney, if not provided with the application, and also has paid the annual fee, obtained a certification decal, provided proof of insurance, provided proof of ownership or lease and filed routes and rate data for each jitney in a manner consistent with sections 46-336 through 46-340 of this Code.

Sec. 46-336. Annual permit fee.

(a) There is hereby assessed the annual permit fee stated for this provision in the city fee schedule per jitney, which shall be payable on or before June 1 of each year, provided that the director shall alternatively allow the fee to be paid in two installments, with ½ due by June 1 and the balance by December 1. In the event that a permit is issued after December, then an amount equal to ½ of the foregoing fees shall be payable for the balance of the annual fee period.

(b) There shall be no fee for replacement of a jitney with another jitney.

(c) The fee imposed under this section is based upon an estimate of the fee allowed pursuant to § 502.003 of the Texas Transportation Code in the amount of two percent of gross receipts. Any permittee who wishes to do so may keep a record of gross receipts in the manner prescribed by regulation of the director. Within 90 days following the expiration of any permit year (June 1 to May 31) a permittee who has kept a record of gross receipts in the prescribed form may apply to the director for a refund of any portion of his total fees paid under this section for the previous permit year that exceeds two percent of the permittee's gross receipts from the operation of the vehicle to which the permit pertains. The refund application shall be made on a form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the permittee in the form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by or on behalf of the permittee. The permittee shall state that the application and all attachments thereto are correct and complete and do not omit any material item, and

that the permittee either: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the permittee the amount stated on the application; or
- (2) Deny the refund. If the refund is denied, the director shall give written notice of the reason and, upon request, shall afford the permittee an informal hearing on the matter before a disinterested hearing official.

Sec. 46-337. Vehicle inspection; fee.

(a) It shall be unlawful for any person to drive or operate or cause to be driven or operated any jitney, unless the jitney has been inspected as required in this section and has a current and valid certification decal affixed thereto. There shall hereby be a non-refundable vehicle inspection fee stated for this provision in the city fee schedule per jitney. All jitneys shall be maintained in a safe and sanitary condition and shall be thoroughly cleaned and disinfected at least once in each 24-hour period.

(b) Each jitney shall be inspected before it is initially placed into service and thereafter before June 1 of each year by the director at such location as the director may specify. The director shall approve the jitney if he determines that:

- (1) The jitney has current Texas registration and required Texas vehicle inspection stickers for both safety and air quality, if applicable;
- (2) The jitney is of the approved color scheme and is marked as provided in this article;
- (3) The jitney is in generally sound working condition with no apparent safety-related defects, including inspection or testing of the speedometer, odometer, horn, windshield wipers, mirrors, steering, service brake, parking brake, tires, exhaust system, high beam indicator, tail lamp, stop lamps, license plate lamp, rear reflectors, turn signal lamps and headlamps;
- (4) The jitney has a lap or lap/shoulder seat belt for the driver and for each passenger seating space to the extent that the vehicle was so equipped by the manufacturer;
- (5) The jitney has no seats that have been added in excess of the manufacturer's specifications; and
- (6) The jitney complies with all other applicable requirements of this article.

(c) Upon the satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the lower right portion of the windshield of the jitney. In any prosecution under this section, it shall be presumed that a jitney has not been inspected as required in this section unless it has a current and valid certification decal affixed thereto.

(d) Replacement certification decals shall only be provided upon reinspection of the jitney.

Sec. 46-338. Insurance.

(a) Before any permit shall be issued to any person, or before renewal of any permit shall be granted, the applicant shall file an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that he is qualified as self-insured, including the provision of a certificate of self-insurance issued pursuant to the Texas Motor Vehicle Safety Responsibility Act as now in force or hereafter amended.

(b) The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in no less than \$1,000,000.00 combined single limit per accident. ~~the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act~~ The insurance required shall be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director. In the event that a policy terminates or is cancelled without replacement, then each permit to which it pertains shall be suspended, and those jitneys may not be operated. If a proper replacement policy is not provided to the director on or before the tenth day after the date of termination or cancellation of the policy, the permit shall automatically terminate. Proof of the insurance required in this section ~~subsection (a)~~ shall be accepted only in the authorized form approved by the Texas Department of Insurance.

Sec. 46-339. Authorized operators.

No jitney for which a permit has been issued under this article shall be operated by anyone except the permittee or an employee of the permittee or other person who may be operating the jitney under a written agreement specifically incorporating therein any rules, regulations, and conditions as may be reasonably required by the director to ensure compliance with applicable laws and regulations. The permittee shall be responsible for anyone operating under his permit whether he be an employee or other person operating under a written agreement. Any person driving or operating a jitney upon the streets or other public property of the city is presumed to be an employee of the permittee or to have entered into a written agreement with the permittee. Any person driving or operating a jitney upon the streets or other public property of the city shall be required to secure a license pursuant to the applicable provisions of this chapter ~~division 2 of this article~~.

Sec. 46-340. Rates; routes.

(a) Each jitney shall be operated upon a route, including a direction of travel upon that route, that has been filed by the permittee with the director. The permittee may file two or more routes for the same jitney if each route is specified for use during different times that are clearly specified. The rate shall be a fixed amount, per person, for transportation from any place on the route to any other place on the route. Rates may either be constant or may be differentiated between peak and off-peak hours, provided that the hours during which each rate will be imposed are specified.

(b) The permittee shall submit all proposed rates and route cards for review and approval by the director. Rates and routes may be amended from time to time. Routes shall not be exclusive. A fee stated for this provision in the city fee schedule shall be imposed for each route or rate filing, per jitney. Each route application that involves use of airport facilities shall be accompanied by the proof required under section 46-323 of this Code.

(c) Approved rate and route cards for each jitney shall be conspicuously posted in the manner specified by regulation of the director. The route card shall state the route and the rate. The information shall also be posted on each side of the vehicle in a manner and location approved by the director. The director may assign route numbers and may assign different colors of route cards to signify fare amounts.

(d) It shall be unlawful for a licensee or permittee while in service with any passenger for hire on board to deviate from the route or to deviate from the direction of travel as filed with the director for that jitney; provided however, the permittee shall submit and the director may approve a route deviation as a result of a road closure or construction on a route currently authorized for use by the permittee and its licensees.

(e) It shall be unlawful for a licensee or permittee to impose a fare other than as filed with the director.

(f) It shall be unlawful to drive or operate or cause to be driven or operated any jitney without the current rate cards posted as provided by the director for the jitney.

(g) Following notice and a hearing, the director may cancel any route that was authorized in error.

Sec. 46-341. Transfer; nonexclusive.

(a) A ~~license or permit~~ is personal to the ~~licensee or permittee~~ to whom it is issued and may not be leased, rented, sold, transferred or conveyed by operation of law or otherwise. Provided, any change of proprietor, change of partnership interests or change of corporate officer or; ~~director or holder of ten percent or more of the outstanding shares of stock as shown on the permit application~~ shall render a permit void, unless an application for transfer is filed within ten days following the effective date of the change. The director shall promulgate procedures for the processing of

amendments and may suspend the permit(s) pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an applicable offense as provided in subsection (c) of section 1-10 of this Code. The fee for filing an application amendment is stated for this provision in the city fee schedule.

(b) Each permit is nonexclusive, and no limits or restrictions shall exist upon the number of jitneys that may be permitted, provided that each must be operated pursuant to a permit and in accordance with all applicable requirements of this article.

Sec. 46-342. Permit tTerms; suspension.

~~(a) A license shall be valid for two years from the date of its issuance. A permit shall be valid for five years from the date of its issuance.~~

(b) In accordance with regulations promulgated by the director, a permit may be amended, without charge, for the limited purpose of adding, deleting or substituting jitney vehicles.

Secs. 46-343—46-350. Reserved.

DIVISION 3. OPERATING REQUIREMENTS

Sec. 46-351. Licensee appearance and conduct.

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

~~(b) Licensees shall be clean shaven, and facial hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well groomed and neatly trimmed at all times in order not to present a ragged appearance.~~

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

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

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

~~(f) It shall be unlawful for any licensee to refuse to board and convey a passenger on a basis of race, color, religion, sex, national origin, age, or disability, including a driver's refusal to board and convey any service animal or medical equipment utilized in conjunction with a passenger's disability.~~

Sec. 46-352. Jitney equipment.

(a) It shall be unlawful for any person to drive or operate or cause to be driven or operated any jitney that is not marked in a manner and location approved by the director and equipped as provided in this section.

(b) No licensee or permittee shall drive or cause to be driven any jitney in the city until the permittee has filed with the director, for approval, the color scheme that he proposes to use in conjunction with the provision of the jitney service. In approving or disapproving the color scheme submitted, the director shall consider:

- (1) The color scheme presently in use by the permittee, if any;
- (2) The color schemes of other permittees; and
- (3) Which permittee first used or requested approval of the color scheme.

~~If the director finds that the permittee is entitled to the use of the requested color scheme because of first or prior use and that it does not deceptively resemble the approved color scheme of another permittee, he shall approve its use by the permittee.~~

(c) If the color scheme is approved, the permittee shall, within 15 days, deliver to the director a color photograph, of a size and kind to be approved by the director, of a jitney of his color scheme, and he shall not change the color scheme without approval of the director.

(d) Additionally, each jitney shall:

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

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

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

Sec. 46-353. Age of vehicle.

(a) No ~~licensee or permittee~~ person shall drive or operate or cause to be driven or operated any jitney that is more than ten years old. For purposes of this requirement, a jitney is considered to be ten years old on the 31st day of May of the tenth year following the manufacturer's model year of the jitney, regardless of the date of its original purchase or the date it was first placed into service.

(b) Notwithstanding the age limitation prescribed in subsection (a) of this section, a licensee or permittee may drive or cause to be driven a jitney for an additional one-year period provided:

- (1) The licensee or permittee submits the jitney for inspection at a location authorized and identified by the director prior to the expiration of the permit issued authorizing the operation of the jitney; and

- (2) The vehicle is determined to be in compliance with the provisions of section 46-337 of this Code and any other conditions of operation prescribed by the director.

Sec. 46-354. Operating requirements.

(a) It shall be the duty of the licensee to ensure that his jitney is operated in accordance with this section.

(b) Solicitation of passengers is unlawful. However, a licensee may indicate available space by gesture from within the jitney and may stop when flagged or hailed by a potential passenger.

(c) No jitney shall stop or stand to pick up or discharge any passenger in a taxicab zone.

(d) No jitney shall stop or stand to pick up or discharge any passenger at any place that is not upon the streets and highways designated upon the route.

(e) No jitney shall stop or stand upon the public streets or other public property, except as required to comply with lawful traffic control devices and to discharge and pick up passengers.

(f) Additional passengers shall have the right to utilize the jitney up to the manufacturer's rated seating capacity.

(g) A log shall be maintained within each jitney in a form prescribed by the director setting forth the hours of work of each licensee. ~~A~~ No licensee shall not operate a jitney for more than 12 hours in any consecutive 24-hour period and ~~a~~ permittee shall not allow or cause any licensee to drive a vehicle in operation as a jitney more than 12 hours in any consecutive 24-hour period. Each permittee shall maintain the log for a period of six months and shall make the same available for inspection or copying upon request at the offices of the director.

Sec. 46-355. Inspection.

The director may inspect any jitney and any records or documents required to be carried in or upon the jitney at any time upon presentation of identification to the driver in order to determine operation in compliance with the provisions of this article and the regulations adopted hereunder by the director.

Secs. 46-356—46-370. Reserved.

ARTICLE VII. LOW-SPEED SHUTTLES

DIVISION 1. GENERALLY

Sec. 46-371. Definitions.

When used in this article, the following words and terms shall have the meanings provided in this section, unless the context of their usage clearly indicates another meaning:

License means a current and valid low-speed shuttle driver's license issued pursuant to division 2 of ~~this article~~ Article I of this chapter.

Licensee means any person in engaged in the act of driving a low-speed shuttle who is the holder of a current and valid low-speed shuttle driver's license ~~issued pursuant to this article~~.

Low-speed shuttle means a motorized non-fossil fuel powered vehicle with a seating capacity of four to eight passengers, including the driver, that has an attainable speed of more than 20 miles per hour and not more than 25 miles per hour on a paved level surface, conforms to Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500), and is used to transport passengers for hire. The term does not include:

- (1) A vehicle modified after its original manufacture to meet the speed requirements or safety equipment requirements contained in 49 C.F.R. Section 571.500;
- (2) A golf cart, moped, motorcycle, or tractor;
- (3) An electric bicycle or motor-driven cycle, as defined by § 541.201 of the Transportation Code;
- (4) A motorized mobility device, as defined by § 542.009 of the Transportation Code;
- (5) An electric personal assistive mobility device, as defined by § 551.201 of the Transportation Code; or
- (6) A motor-assisted scooter, as defined in § 551.351 of the Transportation Code.

Low-speed shuttle service means the business of transporting passengers for hire by means of a low-speed shuttle. Specifically excluded from this definition are:

- (1) Vehicles used in connection with any phase of a funeral or funeral service;
- (2) Taxicabs, pedicabs, and jitneys, sightseeing and charter vehicles, chauffeured limousines, and transportation network vehicles permitted and licensed by the city; and
- (3) Vehicles operating under a contract with the city;
- ~~(4) Sightseeing or charter vehicles licensed by the city; and~~
- ~~(5) Pedicabs licensed by the city.~~

Permit means a permit to operate a low-speed shuttle service pursuant to this article.

Permittee means any person, partnership, corporation, firm, joint venture, limited liability company, association, organization and any other entity holding a permit issued pursuant to this article.

Zone means the geographic area in which the low-speed shuttle will generally operate, as filed with the director in accordance with section 46-400 of this Code.

Sec. 46-372. Reserved.

Sec. 46-373. Article cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of division 3 of article II of chapter 9 of this Code. The director shall not approve a zone that involves the operation of a low-speed shuttle upon any airport terminal complex unless the permittee has first obtained an airport use permit for use of low-speed shuttles within that zone.

Secs. 46-374—46-390. Reserved.

DIVISION 2. PERMITS AND LICENSES

Sec. 46-391. Permit required.

(a) It shall be unlawful for any person to operate a low-speed shuttle service without first obtaining a permit pursuant to the terms of this division.

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

- (1) Have no conviction of an offense stated in subsection (c) of section 1-10 of this Code;

- (2) Identify the make, model, manufacturer's rated seating capacity and vehicle identification number for each vehicle to be used as a low-speed shuttle;
- (3) Identify the proposed zone(s) where the applicant desires to operate the low-speed shuttle service;
- (4) Provide proof of insurance pursuant to the requirements of this article;
- (5) If a natural person:
 - a. Be 18 years of age or older;
 - b. Be able to read and write the English language; and
 - c. ~~Provide written character references from two persons who have known the applicant for at least two years attesting to the applicant's good moral character. Character references shall be from persons who reside in the city unless the applicant has not resided in the city or county for the preceding five-year period; and~~
 - d. Hold a current and valid class A, B, or C Texas driver license.;
- (6) Not have had a license, permit, or franchise issued under this chapter revoked or not renewed for cause by the city within the one-year period preceding the date of filing of the application;
- (7) Provide evidence that the applicant has a place of business within the metropolitan area from which the applicant's low-speed shuttle service will be operated and that such use of the location is in compliance with any applicable deed restrictions; and
- (8) Provide any other information reasonably requested by the director for administration of this article.

Sec. 46-392. License required.

It shall be unlawful for any person to operate low-speed shuttle without a license issued pursuant to this chapter ~~article~~.

Sec. 46-393. Fees.

(a) ~~There shall be a fee in the amount stated for this provision in the city fee schedule for the issuance of a license.~~

~~_____ (b) —~~ There shall be a nonrefundable application processing fee in the amount stated for this provision in the city fee schedule payable upon the filing of an application for a permit.

Sec. 46-394. Annual permit fee.

(a) The annual permit fee in the amount stated for this provision in the city fee schedule per low-speed shuttle shall be payable on or before June 1 of each year.

(b) There shall be no fee for the replacement of a low-speed shuttle with another low-speed shuttle.

(c) The fee imposed under this section is based upon an estimate of the fee allowed pursuant to § 502.003 of the Texas Transportation Code in the amount of two percent of gross receipts. Any permittee who wishes to do so may keep a record of gross receipts in the manner prescribed by regulation of the director. Within 90 days following the expiration of any permit year (June 1 to May 31) a permittee who has kept a record of gross receipts in the prescribed form may apply to the director for a refund of any portion of his total fees paid under this section for the previous permit year that exceeds two percent of the permittee's gross receipts from the operation of the vehicle to which the permit pertains. The refund application shall be made on a form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the permittee in the form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by the permittee. The permittee shall state that the application and all attachments are correct and complete and do not omit any material item, and that the permittee: *(i)* has personal knowledge of each matter affirmed, or *(ii)* has conducted a thorough investigation into each matter affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall:

- (1) Refund or credit to the account of the permittee the amount stated on the application; or
- (2) Deny the refund. If the refund is denied, the director shall give written notice of the reason and, upon request, shall afford the permittee an informal hearing on the matter before an impartial hearing official.

Sec. 46-395. Application.

(a) Each person desiring to obtain a ~~license or~~ permit shall apply on forms provided by the director and shall include all information required by this article.

(b) Each ~~license and~~ permit applicant (including the proprietor if a proprietorship, each partner if a partnership, or each corporate officer or, director, ~~or holder of ten percent or more of the outstanding stock~~ if a corporation) shall appear at a location

specified by the director for identification and fingerprinting to determine the existence of any conviction of any applicable offense(s) set forth in subsection (c) of section 1-10 of this Code. If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested.

Sec. 46-396. Review.

(a) Following review of the application, the director shall provide the applicant with written notification of the approval or denial of the requested permit ~~or license~~. The director shall initially review each application for issuance or amendment of a permit to determine whether the application is complete and all required information has been provided. If not, the application shall be returned, and the applicant shall be so advised.

(b) The submission of any false information or a materially incomplete application, including but not limited to an applicant's failure to provide any information reasonably requested by the director, shall be grounds for denial of the application. In the event of denial, the applicant shall be given written notice of the basis for such action. The applicant shall be entitled to appeal a decision based, in whole or in part, upon section 1-10 of this Code. Notice of any denial shall comply with section 1-9 of this Code and applicable state laws.

(c) If the application is denied on the basis of the applicant's failure to satisfy any other requisites stated in this division, the applicant may request a hearing by submitting a written notice of appeal to the director within 15 business days following the date the director's decision is deposited in the United States mail. An informal hearing shall be conducted by an impartial hearing officer who shall render a decision within 30 business days from the date of the filing of the appeal. At the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the ~~license or permit~~.

(d) If the reason for the denial of an application is curable, the director shall allow the applicant, upon a written request, to submit an amendment within the time allowed in subsections (b) and (c) for an appeal, in lieu of filing of an appeal. If the application is again denied, the applicant shall still be entitled to file an appeal within 15 business days following the date the director's decision regarding the amended application is deposited in the United States mail.

~~(e) A license shall be issued upon the approval of the application therefor.~~ Following approval of an application for a permit, the actual permit shall not be issued until the applicant has provided the make, model, manufacturer's seating capacity and vehicle identification number of each low-speed shuttle, if not provided with the application, and has paid the annual permit fee, obtained a certification decal, provided proof of insurance, provided proof of ownership or lease of each low-speed shuttle, and filed and received approval of all requested zones and rate data for each low-speed shuttle with the director.

(f) The director shall promulgate regulations and procedures for any required hearings which shall be consistent with sections 1-9 and 1-10 of this Code and applicable state laws.

Sec. 46-397. Vehicle inspection; fee.

(a) It shall be unlawful for any person to operate or cause to be operated any low-speed shuttle, unless the low-speed shuttle has been inspected as required in this section and has a current and valid certification decal affixed thereto. There shall be a non-refundable vehicle inspection fee stated for this provision in the city fee schedule per low-speed shuttle. All low-speed shuttles shall be maintained in a safe and sanitary condition and shall be thoroughly cleaned and disinfected at least once in each 24-hour period.

(b) Each low-speed shuttle shall be inspected before it is initially placed into service and thereafter before June 1 of each year at such location as the director may specify. The director shall approve the low-speed shuttle if he determines that:

- (1) The low-speed shuttle has current Texas registration and required Texas vehicle inspection stickers for both safety and air quality, if applicable;
- (2) The low-speed shuttle is of the approved color scheme and is marked as provided in section 46-423 of this Code;
- (3) The low-speed shuttle is in generally sound working condition with no apparent safety-related defects, including inspection or testing of the speedometer, odometer, horn, windshield wipers, mirrors, steering, service brake, parking brake, tires, high beam indicator, tail lamp, stop lamps, license plate lamp, rear reflectors, turn signal lamps and headlamps;
- (4) The low-speed shuttle has a lap or lap/shoulder seat belt for the driver and for each passenger seating space to the extent the vehicle is so equipped by the manufacturer;
- (5) The low-speed shuttle has no seats that have been added in excess of the manufacturer's specifications; and
- (6) The low-speed shuttle complies with all other requirements of this article.

(c) Upon the satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the lower right portion of the windshield of the low-speed shuttle. In any prosecution under this section, it shall be presumed that a low-speed shuttle has not been inspected as required in this section unless it has a current and valid certification decal affixed thereto.

(d) Replacement certification decals shall be provided only upon reinspection of the low-speed shuttle.

(e) The director may inspect any low-speed shuttle and any records or documents required to be carried in or upon the low-speed shuttle at any time upon presentation of identification to the driver in order to determine operation in compliance with the provisions of this article and the regulations adopted hereunder by the director.

Sec. 46-398. Insurance.

(a) Before any permit shall be issued, or before renewal of any permit shall be granted, the applicant shall file proof of insurance coverage evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that he is qualified as self-insured, including a certificate of self-insurance issued pursuant to the Texas Motor Vehicle Safety Responsibility Act as now in force or hereafter amended.

(b) The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in an amount not less than \$500,000.00 combined single limit per occurrence. Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director and an endorsement requiring ten days' written notice of non-payment to the director. In the event that a policy terminates or is cancelled without replacement, then each permit to which it pertains shall be suspended, and those low-speed shuttles may not be operated. If a proper replacement policy is not provided to the director on or before the tenth day after the date of termination or cancellation of the policy, the permit shall automatically terminate. Proof of the insurance required in this subsection shall be carried by licensees at all times while operating a low-speed shuttle and shall be accepted only in the authorized form approved by the Texas Department of Insurance for that purpose.

Sec. 46-399. Authorized operators.

No low-speed shuttle shall be operated by anyone except the permittee or an employee of the permittee or other person who may be operating the low-speed shuttle under a written agreement specifically incorporating therein any rules, regulations, and conditions as may be reasonably required by the director to ensure compliance with applicable laws and regulations. The permittee shall be responsible for any person operating under his permit whether the person is an employee or is a person operating under a written agreement. Any person operating a low-speed shuttle on the streets or other public property of the city is presumed to be an employee of the permittee or to have entered into a written agreement with the permittee. Any person operating a low-speed shuttle on the streets or other public property of the city shall be required to secure a license pursuant to this article.

Sec. 46-400. Rate structure and fares; zones.

(a) Each low-speed shuttle shall be operated within a zone that has been filed with the director. The permittee shall also file with the director the rate structure or fares to be in effect for each zone. The permittee may file two or more operating zones for the same low-speed shuttle.

(b) The permittee shall submit all proposed zones for review and approval by the director. Rates and zones may be amended periodically. Zones shall not be exclusive. The applicable fees stated for this provision in the city fee schedule shall be imposed for each zone, per low-speed shuttle and for the amendment of all zone or rate information submitted to the director. Each zone application that involves use of airport facilities shall be accompanied by the proof required under section 46-373 of this Code.

(c) Approved zones and all rate information, including compensation by gratuity only, for each low-speed shuttle shall be conspicuously posted on each side of the vehicle in a manner and location approved by the director. The director may assign zone numbers and may assign different colors to signify rate amounts.

(d) It shall be unlawful for a licensee or permittee while in service with any passenger for hire on board to deviate from the zone as filed with the director for that low-speed shuttle.

(e) It shall be unlawful for a licensee or permittee to impose a rate structure or collect a fare other than as filed with the director.

(f) It shall be unlawful to drive or operate or cause to be driven or operated any low-speed shuttle without the current structure or fare posted as provided by the director.

(g) Following notice and a hearing, the director may cancel, alter, or amend any zone authorized in error.

Sec. 46-401. Receipt for payment of fare.

No licensee, upon receiving full payment for a fare as authorized by this article, shall refuse to provide a receipt upon the request of any passenger making a payment. The permittee of the low-speed shuttle shall make available to each licensee a receipt book or other electronic instrument capable of creating a record to be used for this purpose.

Sec. 46-402. Transfer; nonexclusive.

(a) A ~~license or permit~~ is personal to the ~~licensee or permittee~~ to whom it is issued and may not be leased, rented, sold, transferred or conveyed by operation of law or otherwise. Provided, any change of proprietor, change of partnership interests or change of corporate officer or, ~~director or holder of ten percent or more of the~~

~~outstanding shares of stock~~ as shown on the permit application shall render a permit void, unless an application for transfer is filed within ten days following the effective date of the change. The director shall promulgate procedures for the processing of amendments and may suspend the permit(s) pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an applicable offense as provided in subsection (c) of section 1-10 of this Code. The fee for filing an amended application shall is stated for this provision in the city fee schedule.

(b) Each permit is nonexclusive, and no limits or restrictions shall exist upon the number of low-speed shuttles that may be permitted, provided that each must be operated pursuant to a permit and in accordance with all applicable requirements of this article.

Sec. 46-403. Permit terms~~Terms of licenses and permits.~~

(a) ~~A license shall be valid for two years from the date of issuance.~~ A permit shall be valid for five years from the date of issuance.

(b) In accordance with regulations promulgated by the director, a permit may be amended, without charge, for the limited purpose of adding, deleting or substituting any number of low-speed shuttle vehicles; provided however, the addition, deletion, or substitution of any low-speed shuttles pursuant to a current and valid permit shall require an inspection as provided for in section 46-397 of this Code, including the payment of the inspection fee.

Secs. 46-404—46-420. Reserved.

DIVISION 3. LOW-SPEED SHUTTLE OPERATING REQUIREMENTS

Sec. 46-421. Operating restrictions.

(a) It shall be unlawful for a licensee or permittee to operate or cause to be operated any low-speed shuttle in a zone that has not approved by the director or on any roadway in the city where the posted speed limit exceeds 35 miles per hour, except for the purpose of crossing that roadway. It shall be unlawful for a low-speed shuttle to be operated on a roadway at a speed that exceeds the lesser of the posted speed limit or 25 miles per hour.

(b) It shall be unlawful for a licensee or permittee to operate or cause to be operated any low-speed shuttle upon any portion of a public sidewalk except as necessary to access locations immediately adjacent to a roadway through the use of points of ingress and egress made available for use by motor vehicles operating in compliance with all applicable traffic laws.

Sec. 46-422. Licensee appearance and conduct.

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

~~(b) Licensees shall be clean shaven, and facial hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well-groomed and neatly trimmed at all times.~~

~~(c) The term "suitably dressed" shall be interpreted to mean the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments.~~

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

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

~~(f) It shall be unlawful for any licensee to refuse to board and convey a passenger on a basis of race, color, religion, sex, national origin, age, or disability, including the refusal to board and convey any service animal or medical equipment utilized in conjunction with a passenger's disability.~~

Sec. 46-423. Low-speed shuttle equipment.

(a) It shall be unlawful for any person to drive or operate or cause to be driven or operated any low-speed shuttle that is not marked in a manner and location approved by the director and equipped as provided in this division.

(b) No licensee or permittee shall drive or cause to be driven any low-speed shuttle in the city until the permittee has filed with the director, for approval, the color scheme that he proposes to use in conjunction with the provision of the low-speed shuttle service. In approving or disapproving the color scheme submitted, the director shall consider:

- (1) The color scheme presently in use by the permittee, if any;
- (2) The color schemes of other permittees; and

- (3) Which permittee first used or requested approval of the color scheme.

~~If the director finds that the permittee is entitled to the use of the requested color scheme because of first or prior use and that it does not deceptively resemble the approved color scheme of another permittee, he shall approve its use by the permittee.~~

(c) If the color scheme is approved, the permittee shall, within 15 days, deliver to the director a color photograph, of a size and kind to be approved by the director, of a low-speed shuttle of his color scheme, and the permittee shall not change the color scheme without approval of the director.

(d) Additionally, each low-speed shuttle shall:

- (1) Have ~~no taxi meter~~ taximeter;
- (2) Have the following signage in letters not less than three inches in ~~length~~^{height} nor less than 5/16 of an inch in brush stroke and of contrasting color to the background:
 - a. The name and telephone number of the permittee and rate structure on its ~~the exterior of both front doors~~;
 - b. The telephone number of the permittee on the rear deck or trunk lid;
 - c. The permit number on the right side of the trunk or rear deck, the right side of the hood, and ~~below the rear door handle~~ on each side of the vehicle; and
 - d. The zone name below the permit number on each side of the vehicle. In the event one low-speed shuttle serves multiple zones, a changeable electronic or analog sign shall indicate the zone the vehicle is currently serving. The current zone and rate structure or fare for each low-speed shuttle must be posted in a conspicuous manner in the interior of the vehicle so as to be clearly visible and understood by all passengers;
- (3) Have a dashboard-mounted holder of a type approved by the director in which shall be mounted the operator's license, a photograph of the operator, and the telephone numbers of the director and the permittee for complaint purposes regarding low-speed shuttle services or charges, including instructions that if the passenger wishes to file a complaint, he should obtain the low-speed shuttle permit number as posted on the low-speed shuttle, date, time, destination, and fare charged. The director shall approve the size of the print, the colors, and the information to be provided so that the information may be easily read by passengers; and

- (4) Have a radio, mobile telephone or other means of two-way communication that may be used to request assistance in the event of an emergency.

The information required in item (2) above shall be painted upon the vehicle, provided that the director may allow the zone information only to be posted upon a magnetic sign or other removable sign of durable materials.

Sec. 46-424. Age of vehicle.

No person shall drive or operate or cause to be driven or operated any low-speed shuttle that is more than six years old. For purposes of this requirement, a low-speed shuttle is considered to be six years old on the 31st of May of the sixth year following the manufacturer's model year of the low-speed shuttle, regardless of the date of its original purchase or the date it was first placed into service.

Sec. 46-425. Carrying additional passengers.

Any passenger who engages the services of a low-speed shuttle shall have the exclusive right to the passenger compartment of the low-speed shuttle, and it shall be unlawful for a licensee to carry additional passengers unless specific permission is obtained from the passenger who originally engaged the low-speed shuttle.

Sec. 46-426. Operating requirements.

(a) It shall be the duty of the licensee to ensure that his low-speed shuttle is operated in accordance with this section.

(b) It shall be unlawful for a licensee to seek or solicit a passenger or passengers in an attempt to engage the services of a low-speed shuttle.

(c) It shall be unlawful for a low-speed shuttle to stop or stand to pick up or discharge any passenger in a taxicab zone or any other area designated for other categories of vehicles. It shall be the duty of each licensee when loading or unloading passengers to pull the low-speed shuttle to the curb and ensure that the low-speed shuttle does not impede normal vehicular and pedestrian movement.

(d) It shall be unlawful for a low-speed shuttle to stop or stand to pick up or discharge any passenger at any place that is not on a street or roadway with a zone submitted to and approved by the director.

(e) It shall be unlawful for a low-speed shuttle to stop or stand upon the public streets or other public property, except as required to comply with lawful traffic control devices and to discharge and pick up passengers.

(f) A log shall be maintained for each low-speed shuttle in a form prescribed by the director setting forth the hours of work of each licensee. ~~A~~No licensee shall not operate a low-speed shuttle for more than 12 hours in any consecutive 24-hour period

and ~~any~~ permittee shall not allow or cause any licensee to drive a vehicle in operation as a low-speed shuttle more than 12 hours in any consecutive 24-hour period. Each permittee shall maintain the log for a period of six months and shall make the same available for inspection or copying upon request at the offices of the director.

Sec. 46-427—46-450. Reserved.

ARTICLE VIII. MOBILE DISPATCH SERVICES

Sec. 46-451. Definitions.

When used in this article, the following words and terms shall have the meanings provided in this section, unless the context of their usage clearly indicates another meaning:

Certificate of registration means a current and valid certificate of registration issued by the director under this article to the owner or operator of a mobile dispatch service.

Mobile dispatch service means the operation of a scheduling service that enables prospective passengers to request pre-arranged transportation services offered or provided for compensation from qualified vehicles for hire using an internet-enabled application or digital platform to send or transmit an electronic, radio or telephonic communication through the use of a portable or handheld device, monitor, smartphone, or other electronic device or unit that indicates the location of the passenger which information is then relayed to a qualified vehicle for hire by radio or data communication of any type. Specifically excluded from this definition are transportation network companies pursuant to article IX of this chapter.

Qualified vehicles for hire means vehicles for hire authorized to provide such transportation services pursuant to article II and division 3 of article IV of this chapter.

Registrant means a person holding a current and valid certificate of registration for a mobile dispatch service under this article and includes all owners and operators of the mobile dispatch service identified in the registration application filed under this article.

Sec. 46-452. Registration required.

(a) Each mobile dispatch service shall register with the city on a form prescribed by the director and shall maintain and provide to the director current and accurate records of all qualified vehicles for hire providing vehicle for hire transportation services through the use of the mobile dispatch service.

(b) A person commits an offense if the person operates a mobile dispatch service without a current and valid certificate of registration.

Sec. 46-453. Use of valid permittees and licensees required.

(a) Each mobile dispatch service shall be responsible for ensuring that any driver assigned to provide vehicle for hire transportation services and any vehicle used in the rendition of the transportation services are duly licensed and permitted, respectively, to provide the transportation service pursuant to the applicable provisions of this chapter.

(b) Upon request, a mobile dispatch service shall make available to the director its records of all qualified vehicles for hire and drivers assigned to provide vehicle for hire transportation services. The provisions of this article applicable to the submission of information to the director shall be cumulative of the provisions of section 46-11 of this Code.

Sec. 46-454. Registration—Form.

(a) To obtain a certificate of registration, a mobile dispatch service shall furnish the following information on a form provided for that purpose by the director, which shall be sworn to before a notary public or conform to minimum state law requirements for unsworn declarations:

- (1) The name and form of business under which the service will be operated (If a partnership or corporation, a copy of the partnership agreement or articles of incorporation must be attached);
- (2) The name, phone number, street address, and mailing address (if different from the street address) of the applicant's agent for service of legal process (which information the registrant shall always keep current);
- (3) A list of all current licensees and permittees providing vehicle for hire transportation services through the use of the mobile dispatch service and updated to the director on a quarterly basis;
- (4) The name, phone number, street address, mailing address (if different from the street address), and e-mail address of the applicant's customer service liaison;
- (5) Evidence that the applicant has a place of business within the metropolitan area;
- (6) The proposed schedule of fares, rates, or other compensation to be charged by the applicant; and

(7) Any additional information as requested by the director for the administration of this division.

(b) The following shall join in the filing of the application for a certificate of registration:

(1) Each partner if the applicant is a partnership;

(2) Each associate if the applicant is an association; or

(3) Each person who is either an officer or director if the applicant is a corporation.

(c) An applicant or registrant shall notify the director within 10 days of any change in associates, partners, officers, or directors of the business applying for or holding a certificate of registration issued pursuant to this article.

(d) An applicant shall have no criminal history that is disallowed under section 1-10 of this Code. Upon initial application for a certificate of registration and upon the request for the renewal thereof, the director shall cause each applicant's criminal history to be researched. The applicant shall complete any forms required for the director to obtain the applicant's criminal history and shall bear the cost of any fees imposed by state or federal agencies providing the criminal history information. This requirement shall not be construed to preclude the director from obtaining interim criminal history information at the expense of the city.

Sec. 46-457. Certificate of registration issuance procedure.

(a) The director shall initially review each application for issuance of a certificate of registration to determine whether the application is complete and all required information has been provided. If not, the director shall return the application to the applicant with a statement of deficiencies.

(b) The director shall review completed applications to determine whether the applicant has met all applicable requirements of this article and section 1-10 of this Code. If so, the director shall issue to the applicant a certificate of registration. If, based upon the review, the director determines that one or more requirements may not have been met, the director shall afford the applicant the right to a hearing before acting on the application.

(c) Prior to the denial of an application for a certificate of registration, the director shall give the applicant written notice of the grounds for denial. The notice shall also provide that the applicant is entitled to a hearing on the denial upon requesting a hearing within 15 business days following the date the notice of denial is deposited in the mail. Where the grounds for denial are based in whole or in part upon section 1-10 of this Code, the hearing shall conform to the requirements of section 1-9 of this Code with respect to those grounds.

(d) A certificate of registration does not entitle the permittee to act as the driver of covered vehicles. A separate license is required for that purpose.

Sec. 46-458. Expiration and renewal of certificate of registration.

(a) A certificate of registration issued pursuant this article shall be valid for one year from the date of issuance.

(b) A certificate of registration may be renewed by making application therefor in accordance with section 46-454 of this Code. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

Sec. 46-459. Display of fare rates.

All registrants shall display their fare rates and provide a fare rate estimator on the website, internet-enabled application, or digital platform used by the registrant to connect passengers to qualified vehicles for hire.

Sec. 46-460. Certificate of registration; non-transferability.

(a) A certificate of registration is specific to the registrant to whom it is issued and may not be transferred or otherwise assigned.

(b) Each certificate of registration is nonexclusive, and no limits or restrictions shall exist upon the number of qualified vehicles for hire that may provide vehicle for hire transportation services through a mobile dispatch service provided that each vehicle must be operated pursuant to a permit and in accordance with all applicable requirements of this article. The director shall promulgate procedures for the processing of amendments and may suspend the certificate of registration pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an offense listed in section 1-10(c) of this Code.

Sec. 46-461. Violations; penalty.

(a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense for each and every violation relating to the operation of a mobile dispatch service, and for each day during which a violation is committed, permitted, or continued.

(b) An offense under this article is punishable as provided in section 1-6 of this Code and the city may enforce the provisions of this article through any other means prescribed in this chapter.

Sec. 46-461—46-500. Reserved.

ARTICLE IX. TRANSPORTATION NETWORK COMPANIES

Sec. 46-501. Scope.

The provisions of this article shall not apply to the transportation of two or more persons between their home and work locations or of persons having a common work related trip purpose or leisure trip purpose in a vehicle used for the purpose of ridesharing when ridesharing is incidental to another purpose of the driver.

Sec. 46-502. Definitions.

License means a current and valid transportation network driver's license issued pursuant to division 2 of article I of this chapter.

Licensee means any person in engaged in the act of driving a transportation network vehicle who is the holder of a current and valid license.

Operation of a transportation network vehicle or operating a transportation network vehicle means offering, making available, or using a transportation network vehicle to provide a transportation network service, including any time when a driver is logged onto the transportation network company's internet-enabled application or digital platform showing that the driver is available to pick up passengers; when a passenger is in the vehicle; when the company's dispatch records show that the vehicle is dispatched; or when the driver has accepted a dispatch and is enroute to provide transportation network service to a passenger.

Permit means a transportation network company permit.

Transportation network permittee or permittee means the holder of, or a person that is required to hold, a current valid transportation network company permit issued pursuant to this chapter.

Transportation network driver or driver means an individual affiliated with a transportation network company transporting passengers for compensation using a transportation network vehicle.

Transportation network company or TNC means a person that offers or provides a transportation network service.

Transportation network service or service means a prearranged transportation service offered or provided for compensation using an internet-enabled application or digital platform to send or transmit an electronic, radio or telephonic communication through the use of a portable or handheld device, monitor, smartphone, or other electronic device or unit that indicates the location of the passenger which information is then relayed by electronic, radio, or data

communication of any type to a transportation network driver operating a transportation network vehicle.

_____ *Transportation network vehicle* means any private passenger motor vehicle used to provide transportation network services. Specifically excluded from this definition are:

- (1) Vehicles used in connection with any phase of a funeral or funeral service;
- (2) Taxicabs, pedicabs, jitneys, sightseeing and charter vehicles, chauffeured limousines, school vehicles, and low speed shuttles, permitted and licensed by the city; and
- (3) Vehicles operating under a contract with the city.

Sec. 46-503. Transportation network company permit required.

(a) No person shall operate a transportation network company in the city without a permit issued pursuant to this article.

(b) It shall be unlawful for any TNC permitted, licensed, or authorized by another jurisdiction to initiate transportation network service within the corporate boundaries of the city without a permit issued pursuant to this article; provided however, a transportation network vehicle operated by a driver affiliated with a TNC permitted, licensed, or authorized by or in another jurisdiction may come into the city to discharge a passenger whose trip originated outside of the city.

Sec. 46-504. Transportation network company permit fee.

(a) The fee imposed for a permit issued pursuant to this article shall be in an amount equal to two percent of the annual gross receipts for the operation of each transportation network vehicle operated by each permittee.

(b) The fee provided in subsection (a) of this section shall be paid to the department of administration and regulatory affairs on a quarterly basis on or before the 10th day following the close of the calendar month for which the quarterly payment is calculated.

(c) The initial payment shall cover the period beginning from the date the permit was issued to the permittee. Upon the submission of each quarterly payment, the permittee shall file with the director a financial report itemizing the components of the permittee's gross receipts for the payment period. All permittees shall utilize any forms promulgated by the director for the submission of the required financial reports and shall submit the financial reports in accordance with any instructions, rules, or regulations promulgated by the director.

(d) Upon 10 days' notice to the permittee, the director shall have the right to inspect the permittee's records the director deems necessary and appropriate to determine that the permittee is in compliance with the requirements of this section.

(e) The fees established in this section shall be payable in addition to any other applicable fees imposed by this Code or other ordinances of the city.

Sec. 46-505. Transportation network permit term.

(a) Permits shall be issued for a term of one year. Permittees desiring to have reissuance of their permit shall, at least 30 days prior to the expiration of the permit, file with the director a written application for a renewal of their permit. Except as otherwise expressly stated, renewals shall be subject to the same requirements set forth in this article for issuance of new permits.

(b) A permit is specific to the permittee to whom it is issued and may not be transferred or otherwise assigned. Any change of ownership, partnership interests, corporate officer or director as shown on the permit application shall render a permit void, unless an application for an amendment is filed within ten days following the effective date of the change. The director shall promulgate procedures for the processing of amendments and may suspend the permit pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an offense listed in section 1-10(c) of this Code.

(c) Each permit is nonexclusive, and no limits or restrictions shall exist upon the number of transportation network vehicles that may be operated provided that each must be operated pursuant to a permit and in accordance with all applicable requirements of this article.

Sec. 46-506. Transportation network company permit - Application.

(a) An application for a permit shall be submitted on forms to be furnished by the director, and the applicant shall furnish the following information with each application, which shall be sworn to before a notary public or conform to minimum state law requirements for unsworn declarations:

- (1) The name and form of business under which the service will be operated (If a partnership or corporation, a copy of the partnership agreement or articles of incorporation must be attached.);
- (2) The name, phone number, mailing address, and street address (if different from the mailing address) of the applicant's agent for service of legal process (which information the applicant shall keep current);
- (3) A schedule showing the model, manufacturer model year date, type, make, vehicle identification number, license plate number, and mileage of each motor vehicle, and a statement as to the legal ownership of each

vehicle proposed to be placed into operation as a transportation network vehicle;

- (4) Proof of current coverage of insurance as required in section 46-508 of this Code;
- (5) A general description of the means and methodology used to charge passengers for vehicle for hire transportation services rendered;
- (6) The proposed schedule of fares, rates, or other compensation to be charged by the applicant; and
- (7) Any additional information as requested by the director for the administration of this division.

(b) If the applicant is a partnership or association, the partners or associates, or if the applicant is a corporation, each person who is either an officer or director shall be required to join in filing the application and all of the herein set forth provisions and requirements applicable to individual applicants shall apply to and be required of each such partner, associate, officer or director. Failure of any of the persons heretofore mentioned to meet such requirements shall be grounds to deny the application of the partnership, association or corporation.

Sec. 46-507. Transportation network company permit - Qualifications for permit.

(a) The director shall initially review each application for the issuance or amendment of a permit to determine whether the application is complete. If not, he shall return the application to the applicant with a statement of deficiencies.

(b) The director shall review complete applications to determine whether the applicant has met all applicable requirements of this chapter and Code. In determining whether an applicant is qualified for a permit, or the renewal thereof, the director shall take into consideration whether:

- (1) The application was filed with no material inaccuracies or omissions, provided that if the application as originally filed was substantially complete and in proper form, the director shall allow an applicant a reasonable opportunity to correct any minor inaccuracies or omissions if that can be accomplished without delaying the processing of applications;
- (2) The applicant and its principals are in compliance with the criminal history provisions of section 1-10 of this Code;
- (3) The applicant is in compliance with all applicable city, State of Texas, and federal laws;

- (4) The applicant has a place of business within the metropolitan area from which the applicant's transportation network service will be operated and that such use of the location is in compliance with any applicable deed restrictions enforceable by the city; and
- (5) The applicant is in compliance with any other applicable requirement of this Code and other laws.

(c) The director shall issue the permit if all applicable requirements of this chapter and Code have been met. If the director approves the permit, issuance shall be subject to compliance with this article, including, but not limited to, payment of any required fees, inspection of vehicles to be utilized, and submission of proof of insurance. A permit does not entitle the permittee to act as the driver of covered vehicles. A separate license is required for that purpose as provided in section 46-510 of this Code.

(d) Applicants who are determined to be unqualified shall be notified of the grounds asserted for that determination and may make a written demand upon the director for a hearing within ten days of receipt of notice that it is unqualified to receive a permit. The director shall conduct a hearing within 15 business days of receipt of a timely written demand for a hearing. If at such a hearing the applicant establishes through competent evidence that the determination that the applicant was unqualified to receive a permit was based upon incorrect findings, the director shall issue the permit. If at such a hearing the determination was found to have been based upon correct findings, the determination shall become final.

(e) If the denial of the permit is based in whole or in part upon section 1-10 of this Code, then the notice and hearing procedures shall also include any requirements to comply with section 1-9 of this Code and applicable state laws. The determination of the hearing examiner with respect to the application shall be final, unless otherwise provided by law.

Sec. 46-508. Transportation network company permit - Insurance required.

(a) Every permittee and transportation network driver shall comply with all applicable insurance requirements mandated by federal, State of Texas, and city laws.

(b) Each applicant for the issuance or renewal of a permit shall provide proof that the applicant has commercial automobile liability insurance, issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies, insuring the general public against any loss or damage that may result to any person or property from the operate of the vehicles covered by the permit and securing payment by the applicant of any final judgment or settlement of any claim against the applicant, its drivers, or employees of the applicant's TNC business resulting from any occurrence arising out of or caused by the operation of a transportation network vehicle. The insurance may be in excess of the driver's automobile liability insurance.

(c) The insurance required in subsection (a) shall be in the form of:

(1) Commercial automobile liability insurance with a combined single limit for bodily injury and property damage of \$1,000,000 per accident covering liability resulting from any occurrence arising out of or caused by the operation of a transportation network vehicle for incidents involving a driver from the time a driver is matched with and accepts a trip request through the transportation network company until the completion of the trip, regardless of whether the driver maintains personal insurance adequate to cover any portion of the claim; and

(2) Commercial automobile liability insurance coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act as now enforced or hereinafter amended during the time that a driver for a transportation network company is logged in and available to provide vehicle for hire transportation services on the transportation network company's internet-enabled application or website, but not actively engaged in providing the service.

(d) The insurance policy required in this section shall be (i) available to cover claims as specified in this section regardless of whether a driver maintains insurance adequate to cover any portion of the claim; (ii) disclosed on the permittee's Internet-enabled application and website, and (iii) maintained in force at all times that the transportation network company offers or provides transportation network service.

(e) No transportation network company permit shall be issued unless the applicant first agrees to provide electronic, on-demand access to the insurance policy required in this section to the director.

(f) Any permittee shall provide proof of insurance (electronic certificates of insurance) required by this section to each transportation network driver before the driver begins providing service and for as long as the driver remains available to provide service.

(g) If any insurer desires to be released from any insurance policy filed under this section, the TNC must give written notice to the director at least 30 days before release from liability occurs. The director shall demand that such TNC furnish evidence of new insurance obtained before the expiration of the policy.

(h) If any policy is cancelled or expires and no new policy is filed by the TNC before the cancellation or expiration of the original insurance, the permit shall automatically be suspended, and the TNC shall discontinue the operation of the affected vehicles within the city. If a proper replacement policy is not provided to the director on or before the tenth business day after the date of termination or cancellation of the policy, the permit shall automatically terminate.

Sec. 46-509. Service charges and fare rates.

All permittees shall display their fare rate and provide a fare rate estimator on the website, internet-enabled application, or digital platform used by the permittee to connect drivers and passengers.

Sec. 46-510. Transportation network drivers – License required.

It shall be unlawful for any person to operate a transportation network vehicle without a license issued pursuant to division 2 of article I of this chapter.

Sec. 46-511. Licensee hours of operation.

A licensee shall not drive for more than 12 hours in any consecutive 24-hour period and a permittee shall not permit or cause a licensee to drive a transportation network vehicle more than 12 hours in any consecutive 24-hour period.

Sec. 46-512. Transportation network vehicles – Vehicle ownership and standards.

(a) No person shall operate or cause to be operated any transportation network vehicle in the city unless and until the vehicle meets all the terms and conditions of this article.

(b) No permittee shall own or lease or provide financing for the ownership or leasing of any transportation network vehicle.

(c) In addition to all other applicable legal requirements, it shall be unlawful for any person to operate or cause to be operated any transportation network vehicle unless the vehicle:

(1) Has at least two doors and meets applicable Federal Motor Vehicle Safety Standards for vehicles of its size, type, and proposed use; and

(2) Is a coupe, sedan, or light-duty vehicle, including a van, minivan, sport utility vehicle, pickup truck, hatchback or convertible.

(d) No vehicle permitted or subject to a certificate of registration and operated as vehicle for hire pursuant to articles II through VIII of this chapter shall be operated as a transportation network vehicle.

(e) The permittee and the permittee's driver shall be jointly and severally liable if the permittee causes or permits the licensee to use a vehicle that does not meet the requirements for a transportation network vehicle.

Sec. 46-513. Transportation network vehicles – Age and mechanical condition.

In addition to the provisions of section 46-514 of this Code, no licensee or permittee shall drive or cause to be driven upon the streets of the city any transportation network vehicle that is more than seven years old or has been driven more than 150,000 actual miles, whichever occurs first. Actual mileage shall be determined from the odometer and title records. For purposes of this requirement, a transportation network vehicle will be considered to be seven years old on July 31st of the seventh year following the manufacturer's model year of the vehicle, regardless of the purchase date or the date it was originally placed into service.

Sec. 46-514. Transportation network vehicles - Inspections.

(a) Prior to using any transportation network vehicle, and annually thereafter, a permittee or licensee shall have the vehicle inspected at a facility designated by the director, and maintain complete documentation of such inspections in the vehicle at all times, and a written copy of such documentation shall be provided to the director upon request. The inspection shall be made to determine that the transportation network vehicle is in a reasonably good state of repair, clean, and equipped and being operated in compliance with all requirements of this article. Inspections shall include, but not be limited to, the following items:

- (1) Foot brakes;
- (2) Parking brakes;
- (3) Steering mechanism;
- (4) Windshield;
- (5) Rear window and other glass;
- (6) Windshield wipers;
- (7) Headlights;
- (8) Tail lights;
- (9) Turn indicator lights;
- (10) Stop lights;
- (11) Front seat adjustment mechanism;
- (12) Doors (open, close, lock);
- (13) Horn;

- (14) Speedometer;
- (15) Bumpers;
- (16) Muffler and exhaust system;
- (17) Condition of tires, including tread depth;
- (18) Interior and exterior rear view mirrors;
- (19) Safety belts for driver and passenger(s); and
- (20) Heating, ventilation and air-conditioning systems.

(b) Upon passing the inspection prescribed in subsection (a) of this section, the director shall issue one certification decal for the transportation network vehicle. The certification decal shall be attached and displayed at the place on the transportation network vehicle designated by the director. The permittee and the licensee shall be jointly and severally liable for any violation of this section.

Sec. 46-515. Transportation network vehicles - Distinctive signage or emblem.

(a) In addition to the certification decal issued pursuant to section 46-514(b) of this Code, a transportation network vehicle shall display, as provided by rule, consistent and distinctive signage at all times while being used to provide vehicle for hire transportation services. The distinctive signage shall be sufficiently large and color contrasted (i) as to be readable during daylight hours at a distance of at least 50 feet, and (ii) to identify a particular vehicle associated with a particular permittee. Acceptable forms of distinctive signage include, but are not limited to, symbols or signs on vehicle doors, roofs, or grilles. Magnetic or other removable distinctive signage is acceptable. Permittees shall file an illustration of their distinctive signage with the director for approval.

(b) A transportation network vehicle shall display a consistent and distinctive emblem at all times while being used to provide vehicle for hire transportation services. The director is authorized to specify, by rule, the manner of display, method of issuance, design and contents of such emblem.

Sec. 46-516. Transportation network drivers - Additional operating requirements.

(a) In addition to all other applicable requirements provided by law, it shall be unlawful for any person:

- (1) To operate a transportation network vehicle within the city while not in possession of a valid driver license issued by a state, district or territory of the United States; or

(2) To operate, or cause to be operated, a transportation network vehicle that does not meet all the applicable requirements of this chapter.

(b) No transportation network driver shall pick up or discharge a passenger on any portion of George Bush Intercontinental Airport/Houston (IAH) or William P. Hobby Airport (HOU) without proper authorization pursuant to chapter 9 of this Code. A licensee carrying a passenger or passengers from IAH or HOU shall pay to the city the airport use fee established from time to time by division 3 of article II of chapter 9 of this Code. Additionally, no transportation network driver shall pick up or discharge any passenger in any designated taxicab stands or loading zones.

(c) It shall be unlawful for any permittee or licensee to solicit potential passengers for vehicle for hire services at, in or near any passenger depot, hotel, airport, ship or ferry landing, bus stop or station, or upon any sidewalk or street or any other place in the city, or use any words or gestures that could be construed as soliciting a passenger for vehicle for hire transportation services.

(d) No transportation network driver shall accept or respond to passengers' or potential passengers' requests for service via traditional street hail, including hand gestures and verbal statements.

(e) It shall be the duty of each licensee to pull his transportation network vehicle to the curb when loading or unloading passengers.

(f) The permittee's internet enabled application or digital platform accessed by potential passengers shall display for the potential passenger: (1) a picture of the transportation network driver and (2) a picture of the transportation network vehicle the driver is approved to use, including the license plate number of the driver's transportation network vehicle. In addition, any permittee shall make any information displayed in the permittee's Internet-enabled application or digital platform also available on such permittee's website.

(g) The permittee shall make available on either the mobile application or the receipt provided to the passenger, the contact information for the permittee's customer service liaison, including, but not limited to, the liaison's name, phone number, and e-mail address.

(h) Any permittee shall clearly disclose, on the permittee's on-line enabled application or digital platform and website, that the permittee is a TNC. Additionally, the disclosure shall state that each permittee is required to maintain insurance policies as specified in section 46-508 of this Code.

(i) Any licensee shall provide to any authorized law enforcement officer proof of the insurance policies required by this article in case of an accident involving a transportation network vehicle while operating a transportation network vehicle.

(j) Any permittee shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a permittee cannot provide a wheelchair-accessible transportation network vehicle, it shall provide the prospective passenger with for hire transportation services in a manner consistent with section 46-2 of this Code.

(k) Any permittee shall have an affirmative duty to respond to requests for service and shall be responsible for the actions of any of its employees, licensees, or other person that reports to, or acts as an agent of, the permittee, for any failure to respond to a request for service.

(l) All licensees operating a transportation network vehicle shall at all times: (1) carry proof of the insurance policies required in section 46-508 of this Code covering the vehicle; (2) carry an electronic or paper copy of the agreement or terms of service between the driver and the TNC; and (3) display the certification decal and distinctive signage or emblem required by this article.

(m) Upon request a licensee shall display to the director, or other person authorized to enforce this chapter, a physical or electronic record of a ride in progress sufficient to establish that it was a prearranged transportation service. To the extent that trip records are contained on an electronic device, a licensee is not required to relinquish custody of the device in order to make the required display but must demonstrate to the director or other person authorized to enforce this chapter that the licensee has in his possession proof of that the ride in progress is the result of a prearranged transportation service.

(n) Any terms or conditions in the agreement between the permittee and licensee, or between the permittee and any passenger, that would act as a waiver of the permittee's liability to the passenger or to the public, are declared to be contrary to public policy, null, void and unenforceable.

Sec. 1-10. Same—Specific permits, licenses, and registrations.

(b) The authorizations enumerated in this subsection shall be denied if the applicant has been convicted of any of the designated offenses within the five-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the five-year period immediately preceding the date of the filing of the application for such a conviction. Additionally the following authorizations shall be subject to denial, revocation, or refusal for renewal, as applicable, if the holder has been convicted of any of the designated offenses since the application was filed. Provided however, no such authorization shall be denied, revoked or refused for renewal if the conviction was set aside as invalid or if it is found that the authorization should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

- (8) Occupational licenses or permits issued to, or in connection with, the following businesses or occupations:

TYPE OF PERMIT	CODE REFERENCE*
Ambulance Permits	4-1 thru 4-19
Antique Dealers, Precious Metals Dealers, Resale Media & Clothing Dealers	7-16 thru 7-50
Automotive Body Repair Shop	21-166(a)(1)
Automotive Parts Rebuilder	8-16, 8-51, et seq.
Automotive Rebuilder and Dismantler	8-16, 8-51, et seq.
Automotive Repair Facility	8-16, 8-51, et seq.
Automotive Storage Lot Operator	8-16, 8-51, et seq.
Body Shop Facility With Storage Privileges	8-16, 8-51, et seq.; 20-166(a)(1)
Carnival Amusement	5-16 thru 5-45
Charter Bus Operator	46-211(a)
Common Market	7-108(a)
Concrete Crushing Site	21-167, et seq.
Dance Hall	5-71, et seq.
Dealer—Vehicles, Parts, Accessories	8-16, 8-51, et seq.

Drain Layer	47-221; Plumbing Code § 104
Dealer In Motor Vehicles	8-16, 8-51, et seq.
Dry Cleaning Plant	21-166(a)(3); Fire Code 105.6.12
Farmers Market	20-186, et seq.
Food Dealers (restaurants, street vendors, etc.)	20-36 thru 20-44
Gas Dispensing Site	21-166(a)(2)
House Mover	10-84
House Repair or Resale Lot	10-49(e)
Jitney Permit	46-321 thru 46-370
Kennel License	6-121 thru 6-126
Limousine Permit	46-331, et seq.
Low Speed Shuttle Permit	46-391, et seq.
Metal Recycler/Secondhand Metal Dealers and Resellers	7-51 thru 7-80
Mini Warehouse	27-1 thru 27-6
<u>Mobile Dispatch Service Certificate of Registration</u>	<u>46-452</u>
Parking Facility	8-16, 8-51, et seq.
Pedicab Permit	46-141 thru 46-190
Retail Supply Dealer	8-16, 8-51, et seq.
School Vehicles	46-276 thru 46-320
Secondhand Reseller	7-57(b)
Sexually Oriented Businesses	28-81 thru 28-150
Sidewalk Sales and Performances (food; merchandise)	40-261 thru 40-280
Skeet Club/Shooting Gallery	5-139
Storage Lot	8-16, 8-51, et seq.
Street Vendors	22-1 thru 22-50
Swimming Pools	43-31 thru 43-39
Taxicabs	46-16 thru 46-140
Tire Transporter	21-198(c)

Transportation Network Company Permit	46-503
Used Parts & Used Accessory Dealer	8-16, 8-51, et seq
Used vehicle sales lot	21-166(a)(4)
Valet Parking Services	26-371 thru 26-452
Vehicle Immobilization Service	26-651, et seq.
Wholesale Auto Jobber & Supply Dealer	8-16, 8-51, et seq.
* All references are to the numbered sections of the City's Code of Ordinances unless otherwise specified.	

- a. A conviction of either criminal offense defined in the Texas Pay Day Act, Texas Labor Code, Section 61.019; or
- b. A conviction of the criminal offense of theft of service defined in Texas Penal Code, Section 31.04(a)(4).

For purposes of this item, *conviction* means that a final adjudication of guilt relating to a criminal offense described in this item has been entered that has not been satisfied and for which no further appeal is available; the conviction shall be grounds for the denial, revocation or nonrenewal of any occupational license or permit issued to any business or occupation described in this item for a period of five years following the date of such conviction.

(c) The permits, certificates of registration, and licenses and ~~permits~~ enumerated in this subsection shall be denied if the applicant (i) has been convicted of any of the designated offenses within the ten-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the ten-year period immediately preceding the date of filing of the application for such a conviction, or (ii) is subject to deferred adjudication in connection with any of the above offenses. Additionally, the following permits, certificates of registration, and licenses and ~~permits~~ shall be subject to denial, revocation, or refusal for renewal, as applicable, if the permittee, registrant, or licensee or ~~permittee~~ has been convicted of any of the designated offenses since the application was filed. Provided, however, no such permit, certificate of registration, or license or ~~permit~~ shall be denied, revoked, or refused for renewal if the conviction was set aside as invalid or if it is found that the license or permit should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

SGT licenses issued pursuant to section 9-58 of this Code and permits, certificates of registration, and licenses issued pursuant to chapter 46 of this Code ~~for school vehicle operators, pedicab operators and drivers, low-speed shuttle operators and drivers, charter or sightseeing service~~

~~operators and drivers, chauffeured limousine service operators and drivers, taxicab drivers, and jitney drivers, and permits issued for taxicabs, pedicabs, low-speed shuttles, and jitneys, and franchises issued pursuant to uncodified ordinances for school bus operators:~~

- a. Any offense involving fraud or theft;
- b. Any offense involving forgery;
- c. Any offense involving the unauthorized use of a motor vehicle;
- d. Any violation of state or federal laws regulating firearms;
- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas;
- f. Any offense involving prostitution or the promotion of prostitution;
- g. Any offense involving rape, sexual abuse, sexual assault, rape of a child, sexual abuse of a child, indecency with a child, or resulting in designation of the individual as a "registered sex offender" by any state or by the federal government;
- h. Any offense involving the use of or sale of drugs;

~~In addition to the offenses listed above, the following shall apply to franchises for school operators and SGT licenses issued pursuant to section 9-58 of this Code and licenses issued pursuant to Chapter 46 of this Code for school vehicle operators, taxicab drivers, pedicab drivers, low-speed shuttle drivers, jitney drivers and chauffeured limousine drivers;~~

- i. ~~Three or more moving violations of the traffic laws of this state or any other state if such violations occurred within the two years immediately preceding the application for or renewal of a franchise or license or of the notice of a hearing for revocation of a franchise or license;~~

~~In addition to the offenses listed above, the following shall apply to franchises for school bus operators and licenses for school vehicle operators, limousine drivers, pedicab drivers, low-speed shuttle drivers, taxicab drivers, jitney drivers;~~

- j. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

~~Each of the foregoing provisions of this subsection shall also be applicable to persons proposed to be listed as drivers by school vehicle licensees and applicants, school bus franchisees and applicants, and SGT licensees and applicants.~~

The above listed offenses shall be grounds for denial, revocation or refusal for renewal of the above ~~referenced~~listed permits, certificates of registration, and licenses, permits, franchises, and listings of drivers authorized thereunder as they allow persons to engage in businesses and occupations in which there is a high degree of personal contact with and danger to the public and a serious need to protect the members of the public utilizing public transportation services from the type of criminal conduct represented by such offenses.

Sec. 1-15. Conducting national criminal background checks.

(a) This section applies to the following licenses, permits or authorizations or renewals thereof:

- (1) All licenses issued pursuant to article II of Chapter 8 of this Code except retail supply dealer licenses;
- (2) Wrecker licenses issued pursuant to subdivision B of division 2 of article III of Chapter 8 of this Code;
- (3) Licenses issued pursuant to section 5-171 of this Code authorizing a person to operate, use or maintain any room or place where persons are permitted to play at any game of dominoes, cards or other games;
- (4) Authorizations for private storage lots issued pursuant to Chapter 8, article III, division 3 of this Code;
- (5) Permits for sexually oriented business enterprise entertainers and managers issued pursuant to article VIII of Chapter 28;
- (6) Permits for valet parking services, issued pursuant to Chapter 26, article VII, division 2;
- (7) Permits for vehicle immobilization services issued pursuant to Chapter 26, article X, division 2 of this Code;~~or~~
- (8) SGT licenses issued pursuant to section 9-58 of this Code and permits, certificates of registration, and licenses issued pursuant to Chapter 46 of this Code~~for school vehicle operators, pedicab operators and drivers, low-speed shuttle operators and drivers, charter or sightseeing service operators and drivers, chauffeured limousine service operators and drivers, taxicab drivers, and jitney drivers, and permits issued for taxicab,~~

~~pedicabs, low speed shuttles, jitneys, and franchises issued pursuant to uncodified ordinances for school bus operators; or~~

- (9) Licenses for crafted precious metals dealers issued pursuant to article IV of Chapter 7 of this Code;
- (10) Registrations for boarding homes issued pursuant to article XIV of chapter 28 of this Code; and;
- (11) Licenses issued for dance halls pursuant to chapter 5, article III, of this Code.

(b) This section is enacted pursuant to §§ 411.122 and 411.087 of the Texas Government Code, which authorizes the city to obtain criminal history record information maintained or indexed by the Federal Bureau of Investigation ("FBI") through the Texas Department of Public Safety ("DPS").

(c) Each individual whose application for a license, permit or authorization or any renewal thereof is subject to subsection (a) shall be required to provide a complete set of fingerprints and other identifying information to the official designated by the permitting, licensing or authorizing department, along with any applicable fee and any release or waiver forms required in order for the official to conduct a national background check through the FBI.

(d) Upon receipt of the fingerprints and any applicable fee, the city is authorized to submit the fingerprints to the DPS for a search of the State's criminal history record, and the DPS is authorized to forward a set of the fingerprints to the FBI for a national criminal history check. The results of the FBI check will be returned to the DPS, which will disseminate the results of state and national criminal history checks to the city.

(e) The criminal history record information obtained through the FBI by the city will be used to determine compliance with section 1-10 of this Code.

26

JUL 30 2014

MOTION NO. 2014 0629

MOTION by Council Member Gallegos that the following item be delayed for thirty days:

Item 36 - Ordinance appropriating \$10,000,000.00 out of the Miscellaneous Capital Projects / Acquisitions CP Series E Fund for the Grade Separated Betterment of the Light Rail Crossing of the Tracks At Harrisburg And Hughes; authorizing and approving a supplement to the consent agreement between the City of Houston and The Metropolitan Transit Authority of Harris County (Approved by Ordinance No. 2008-0567

Seconded by Council Member Bradford and carried.

Mayor Parker, Council Members Stardig, Davis, Cohen, Boykins, Martin, Nguyen, Pennington, Gonzalez, Gallegos, Laster, Green, Costello, Robinson, Kubosh, Bradford and Christie voting aye
Nays none

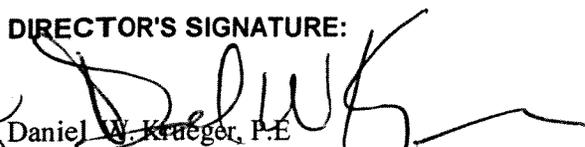
PASSED AND ADOPTED this 25th day of June 2014.

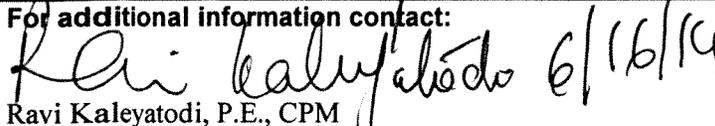
Pursuant to Article VI, Section 6 of the City Charter, the effective date of the foregoing motion is July 1, 2014.


City Secretary

SUBJECT: An Ordinance approving a Supplement to the Consent Agreement between the City of Houston and the Metropolitan Transit Authority of Harris County (METRO) and authorizing an appropriation of \$10 M for the Grade Separated Betterment of the Light Rail Crossing of the Tracks at Harrisburg and Hughes; WBS No. N-000670-0003-7.	Page 1 of 2	Agenda Item # <div style="border: 1px solid black; padding: 5px; display: inline-block; text-align: center;">26/36</div>
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FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 6/19/14	Agenda Date <div style="text-align: center;">JUL 30 2014 JUN 25 2014</div>
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DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E.	Council District affected: H, I
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For additional information contact:  Ravi Kaleyatodi, P.E., CPM Senior Assistant Director Phone: (832) 395-2326	Date and identification of prior authorizing Council action: Ordinance No. 2008-0567, June 18, 2008
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RECOMMENDATION: (Summary)
Adopt an Ordinance approving a Supplement to the Consent Agreement between the City and METRO and authorizing the appropriation of \$10 M for the betterment of Harrisburg Boulevard where it is crossed by the HB&T track in the vicinity of Hughes Street

Amount and Source of Funding:
\$10,000,000.00 from Fund 4039 - Miscellaneous Capital Projects / Acquisitions CP Ser E

PREVIOUS HISTORY Chapter 451 of the Texas Transportation Code specifically authorizes Metropolitan Transit Authorities to use a municipality's public right of way with the municipality's consent to construct, operate and maintain a public transit system. The Consent Agreement for Phase 2 METRO Rail and the Metro Solutions Plan was approved by City Council on June 18, 2008, Ordinance Number 2008-0567. In accordance with the agreement, METRO will prepare and submit for the City's approval its design for the relocation of City and privately-owned utilities, as well as all other rearrangements and betterments to facilities within the public right-of-way or property.

PROJECT NOTICE/JUSTIFICATION: The Supplemental Agreement To Consent Agreement Phase 2 will provide for METRO's design, construction, operation and maintenance of a transit system for the defined scope, inclusive of grade separated traffic lanes and sidewalks for Harrisburg Boulevard to cross the existing HBT tracks as well as continue at grade. This project is part of the METRO Solutions Plan, Phase 2.

LOCATION: The intersection of Harrisburg Boulevard and Hughes Street is located in Key Map Grid 494U.

LTS No. 12217 **CUIC ID # 20TAA75**

Finance Department:	Other Authorization:	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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Date	SUBJECT: An Ordinance approving a Supplement to the Consent Agreement between the City of Houston and the Metropolitan Transit Authority of Harris County (METRO) and authorizing an appropriation of \$10 M for the Grade Separated Betterment of the Light Rail Crossing of the Tracks at Harrisburg and Hughes; WBS No. N-000670-0003.	Originator's Initials TAA	Page <u>2</u> of <u>2</u>
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DESCRIPTION/SCOPE: With METRO's construction of the light rail system in a grade separated configuration crossing the existing HBT tracks across Harrisburg, the City has requested METRO provide for betterment of the City's street by including two grade separated traffic lanes with the light rail system, in addition to performing required rearrangement of the current City street facilities at grade as necessitated by the addition of the light rail system within the ROW.

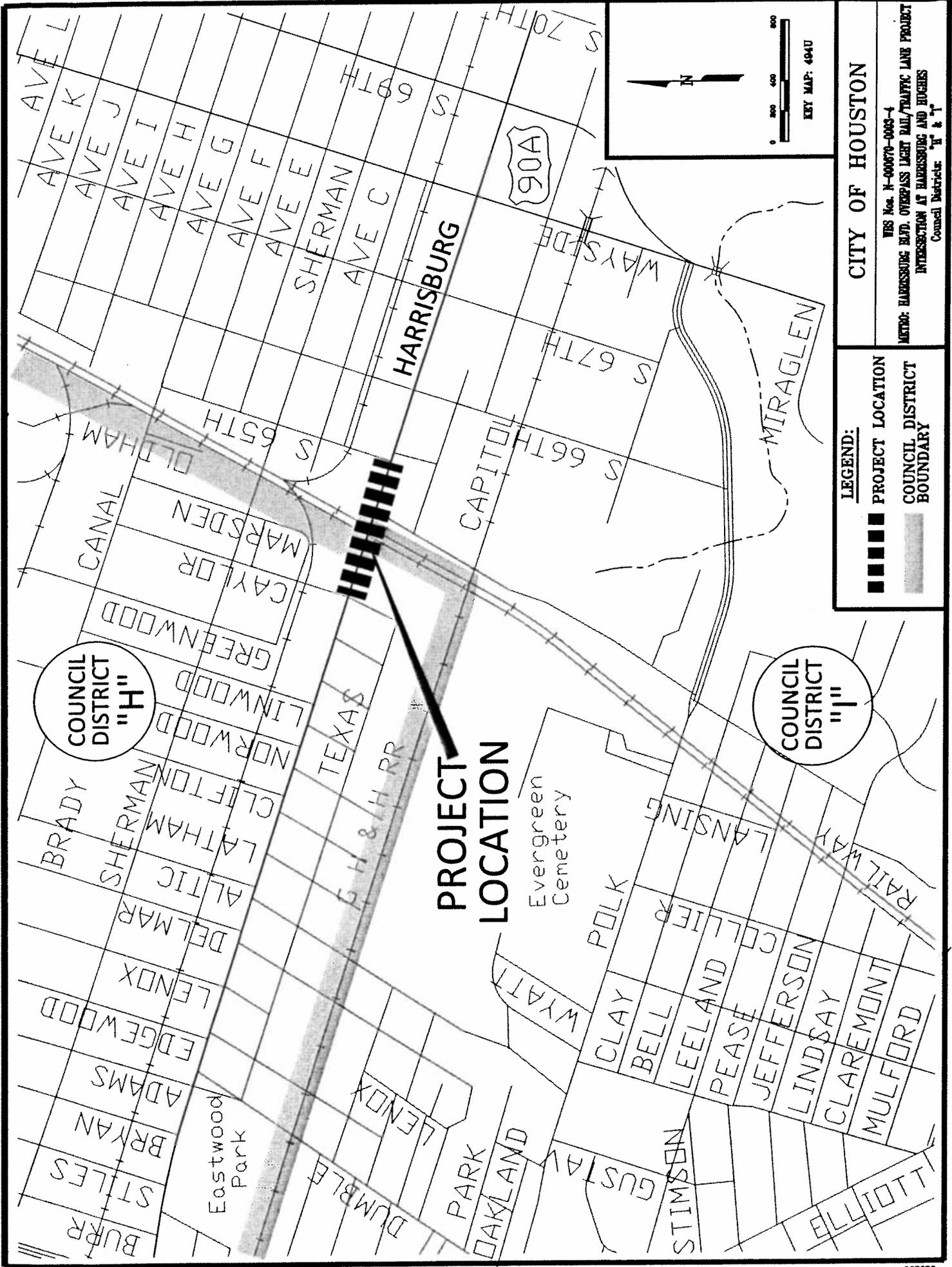
The Harrisburg Overpass Light Rail/ Traffic Lane Project of the METRO Solutions Plan shall consist of the design and construction of an overpass bridge structure to support METRO's East End Light Rail Line trackway and two 16-foot traffic lanes with two 5-foot sidewalks, as well as modified surface street features of two 16-foot traffic lanes with two 6-foot sidewalks crossing the Houston Belt & Terminal railroad at grade. The overpass bridge and Betterment will include all features to be complete to include street lighting, guard rails, pavement markings, traffic control signage, drainage, and under-bridge lighting.

ACTION RECOMMENDED : It is recommended that the City Council adopt an Ordinance approving a Supplement to the Consent Agreement between the City of Houston and the Metropolitan Transit Authority of Harris County (METRO) and authorizing the appropriation of \$10,000,000.00 for the Grade Separated Betterment of the Light Rail Crossing of the Tracks at Harrisburg and Hughes.


DWK:DRM:RK:TAA

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c: File – METRO – METRO Solutions Phase 2 East End Corridor Segment 1



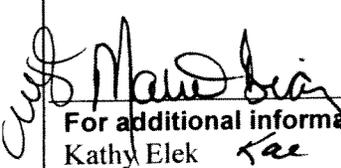
- LEGEND:**
- PROJECT LOCATION
 - ▬ COUNCIL DISTRICT BOUNDARY

CITY OF HOUSTON

TBS No. H-000670-0003-4
 METRO: HARRISBURG EXT. OVERPASS LIGHT RAIL/TRAFFIC LANE PROJECT
 INTERSECTION AT HARRISBURG AND RIVERS
 Council Districts "H" & "I"

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Lease Agreement between the City of Houston and Black Forest Ventures Aviation RE, LLC – William P. Hobby Airport (HOU).		Category #	Page 1 of 2	Agenda Item 279
FROM (Department or other point of origin): Houston Airport System		Origination Date July 9, 2014	Agenda Date JUL 23 2014	
DIRECTOR'S SIGNATURE: 		Council District affected: I JUL 30 2014		
For additional information contact: Kathy Elek <i>Kee</i> Phone: 281/233-1826 Ian Wadsworth <i>IW</i> Phone: 281/233-1682		Date and identification of prior authorizing Council action: N/A		
AMOUNT & SOURCE OF FUNDING: REVENUE: \$122,000 annually		Prior appropriations: N/A		

RECOMMENDATION: (Summary)

Enact an ordinance approving and authorizing the execution of a Lease Agreement between the City of Houston and Black Forest Ventures Aviation RE, LLC at William P. Hobby Airport (HOU).

SPECIFIC EXPLANATION:

Black Forest Ventures Aviation RE, LLC ("Lessee") has requested to enter into a new hangar lease covering approximately 2.77 acres of improved land located at William P. Hobby Airport (HOU).

The pertinent terms and conditions of the Lease are as follows:

- 1. Leased Premises:** Approximately 2.77 acres of land and improvements which includes hangar, ramp and parking located at 8410 Larson Street.
- 2. Term:** Forty (40) years, unless sooner terminated in accordance with the terms of the Lease. The Agreement may be mutually terminated by written agreement of Lessee and the Director.
- 3. New Investment:** Lessee shall expend not less than \$150,000 to improve the leased premises during the first five years following the effective date. Lessee shall also expend not less than an additional \$1,400,000 during the remaining term of the lease.
- 4. Rent:** Based on appraisals, annual rent is \$122,000 annually. Following each fifth year of term, the rent shall be increased by approximately 15%.
- 5. Performance Security:** Lessee will provide a performance bond or an irrevocable Letter of Credit in the amount of \$61,000.

REQUIRED AUTHORIZATION

Finance Department:	Other Authorization:	Other Authorization:
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Date July 9, 2014	Subject: Lease Agreement between the City of Houston and Black Forest Ventures Aviation RE, LLC– William P. Hobby Airport (HOU).	Originator's Initials	Page 2 of 2
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|-----------------------------------|---|
| 6. Use: | Premises may be used by Lessee for the operation of charter aircraft service consistent with Federal Aviation Regulation Part 135 for the purpose of chartering aircraft to individuals and corporations and the operation of aircraft under Federal Aviation Regulation Part 91 on behalf of, or by, the owners or lessees of aircraft under a hangar agreement with Lessee. Lessee may also use the premises for fixed base operations upon the opening of Black Forest's new FBO facility on the south ramp. |
| 7. Maintenance and Utilities: | Lessee shall assume the entire responsibility, cost and expense for all repair and maintenance of the leased premises and shall be responsible for all utilities furnished to the leased premises. |
| 8. Indemnification and Insurance: | Lessee shall indemnify and hold the City harmless and shall provide the required insurance in the limits as stated in the Lease. |
| 9. Other: | Lessee shall comply with all federal, state and local environmental laws and all Airport policies and procedures. |