

City Council Chamber, City Hall, Tuesday, November 28, 2000

A Regular Meeting of the Houston City Council was held at 1:30 p. m. Tuesday, November 28, 2000, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Jew Don Boney, Jr., Rob Todd, Mark A. Ellis, Gabriel Vasquez, John E. Castillo, Annise D. Parker, Gordon Quan, Orlando Sanchez, and Chris Bell; Mr. Paul Bibler, Senior Counsel, City Attorney's Office, Mr. Richard Cantu, Director, Mayors Citizens Assistance Office; Ms. Marty Stein, Agenda Director present. Council Member Carroll G. Robinson absent on personal business.

At 2:02 p.m. Mayor Brown stated that Council would begin with their presentations beginning with Council Member Parker. Council Members Goldberg, Boney, Todd, Ellis, Vasquez, Sanchez and Bell absent. (NO QUORUM PRESENT)

Council Member Parker invited Ms. Linda Williams to the podium to help with the presentations for "Sports Day 2000" and stated that Sports Day was a cold and rainy day and as a Council Member participant she was glad for the rainout and unfortunately it called the Council Members Softball Team to disband before the rainout date took place, but she thanked Council Member Quan for putting together the first team; that this was the tenth annual Sports Day which was an outgrowth of the Employee Wellness Council and she thanked Mayor Brown, Mr. Tom Rolen, Mr. Oliver Spellman, Police Chief C. O. Bradford, Fire Chief Lester Tyra and the wellness coordinators for making sure things happened and she had trophies and certificates to present by category with the first going to the basketball team winners, the HPD Bullets; second, was the relay team, the Affirmative Action Eliminators; third, was the softball team, the Houston Airport System Aviation 643; fourth, was for tennis, the Legal and City Council Litigators; and fifth, was for volleyball, the Houston Public Library HPL Wild Cats and they won seven years with the last five being consecutive; and asked for a round of applause for all participants and winners. Council Members Boney and Vasquez absent.

Council Member Galloway stated that today it was an honor to make her presentation to a distinguished citizen in the Houston community, Mr. Allen Helfman and invited him to the podium. Council Member Galloway stated that Mr. Helfman had active civic involvement and enhanced the quality of life enjoyed by all Houstonians; that Mr. Helfman made many significant contributions toward the betterment of the city through his dedication and commitment to the community and he was vice president for River Oaks Chrysler Plymouth Jeep as well as Helfman Ford and following his father's footsteps he participated in many voluntary efforts in Houston earning respect for all; that he had active participation in many nonprofit organizations which provided service to inner city programs targeting alcohol, drugs, child abuse and HIV awareness and prevention and also participated in the Jewish Federation, Seven Acres Jewish Care Center, Big Brothers, Big Sisters, Casa De Esperanza, Covenant House, Families Under Urban and Social Attack, Inc. and House of Hope and he was devoted to law enforcement officers and firefighters and had hosted numerous events benefiting them and their families. Mayor Brown stated that based on all Council Member Galloway said he hereby proclaimed Tuesday, November 28, 2000, as "Allen Helfman Day" in Houston, Texas. Mr. Helfman thanked the Mayor and Council for the award and stated that he would try and live up to their expectations; that he hoped the day would soon come when it was not difficult to enlist the talent and expertise and resources of the rich and

powerful in an effort to improve the quality of life for those who were less fortunate and happened to be numbered among the poor and disadvantaged; the day when every rich man or woman would recognize and accept the truth in the words, "To whom much is given, shall much be required"; the day when fund raising to support worthy causes would be given. Mayor Brown stated that he would like to add a comment to Mr. Helfman, he was someone who he saw in the community all the time doing things to help people and his words were very sincere; that he lived up to what he believed in and did much to help those less fortunate; that his honor was well deserved and he was glad they honored him today; and would also like to welcome Mr. Bill Samuels, publisher of the Jewish Herald Voice and Mr. Helfman's wife. Council Members Boney and Vasquez absent.

At 2:18 p.m. Mayor Brown called the meeting to order and called on Council Member Parker who led all in prayer and in the pledge of allegiance. Council Members Boney and Vasquez absent.

The City Secretary called the roll. Council Member Robinson absent on personal business. Council Members Boney and Vasquez absent.

Council Members Sanchez and Castillo moved that the minutes of the preceding meeting be adopted. Council Member Robinson absent on personal business. Council Members Boney and Vasquez absent. MOTION ADOPTED.

At 2:30 p.m. Mayor Brown stated that there was an item of business before going to the public session; and requested the City Secretary to call the item. Council Members Boney and Vasquez absent.

1. RECEIVE nominations for Positions Six and Seven on the **CIVIC ART COMMITTEE** with terms to expire January 1, 2002 – was presented.

Council Member Quan moved to postpone Item one until tomorrow's Agenda, seconded by Council Member Todd. Council Member Robinson absent on personal business. Council Members Boney and Vasquez absent. MOTION 2000-1437ADOPTED.

Mayor Brown stated that now Council would hear from the public and requested the City Secretary to call the speakers. Council Members Boney and Vasquez absent.

Mr. Demon Smith, 7703 Kellwood, Houston, Texas 77040 (713-856-9332) had reserved time to speak, but was not present when his name was called. Council Members Boney and Vasquez absent.

Mr. J. Hall, 2710 Pecan Ct., Missouri City, Texas 77459 (281-835-0078) had reserved time to speak, but was not present when his name was called. Council Members Boney and Vasquez absent.

Mr. Christopher Cato, 7710 Boggess, Houston, Texas 77016 (713-635-4604) had reserved time to speak, but was not present when his name was called. Council Members Boney and Vasquez absent.

Ms. Regina Garcia, 2425 University Blvd., Houston, Texas 77025 (713-522-9306) appeared and stated that she was chairperson of the Houston Bicycle Advisory Committee; that she had a report written by the Advisory Committee in 1975; that 25 years ago City Council had it in their minds to implement a bicycle program in Houston with on and off street routes and apparently they failed because she was present today and she would ask that Council please not emulate failure; that the bicycle program had been limping along now for seven years due to the lack of dedicated manpower and for no other reason and the city had no plans except to hire a bicycle coordinator and even that small gesture had not been given deserved attention; that the position had been vacant for three months and the position opening was only posted three weeks ago; that this was going to need a whole dedicated team and not one person to be a success and it would take leadership from the Mayor and all of Council; that clear objectives must be identified and action must be immediate; that Tuesday, November 14, at the public hearing Mr. Rolon, Director of Public Works, and a representative of TxDOT both agreed they could not indiscriminately remove sections of the bikeway program, the Transportation Efficiency Act for the 21st Century or TEA-21 was signed into law by President Clinton in 1999 stating flatly that no established bicycling corridor could be eliminated unless an alternative route was provided; that bicycle lanes were eliminated on West Dallas and the alternative route was Buffalo Bayou, however, that route was also closed on the north and south sides and she brought photos with signage stating it was closed for Council to view and no alternative bike route was provided; that employees of the Houston Bikeway Program were not notified nor was the Houston Bicycle Advisory Committee and they needed leadership from Council and a united Council to address the problems. Council Members Boney and Vasquez absent.

Council Member Bell stated that Ms. Garcia could finish her statement; and Ms. Garcia stated that the Houston Bikeway Program contributed to meeting established deadlines of the state implementation for air quality so they should learn more about it and be able to explain it to constituents; that every major city in the nation had been able to make their bike program and Houston could also. Upon questions by Council Member Bell, Ms. Garcia stated that some major cities with such programs were Tucson, Arizona and many cities in Florida, Philadelphia just rebuilt their whole downtown area around bike and pedestrian issues, Chicago, Austin and they had eight on staff and it had been in place 10 years, Dallas had a program in place 10 years and you could go all across the nation; that there was a bike path all the way from Connecticut to San Francisco and yet they could not get one across Houston; that no one was advised about the closing on Dallas and even no one working for the bikeway program were contacted and they did not know until she called to see what happened; that they said they talked to TxDOT and it was their decision to remove the lane because of the reconstruction on I-45 and it was to help get traffic out of downtown so TxDOT was blaming the City of Houston and they were blaming TxDOT. Council Members Boney and Vasquez absent.

Council Member Bell asked if anyone was present from the Administration who could answer whether there were plans to restore the bike lane once the I-45 construction was finished; and Mayor Brown asked if anyone was present who could respond; and with there being no one stated that an answer would be given to him. Council Members Boney and Vasquez absent.

Council Member Quan thanked Ms. Garcia for her remarks at the townhall meeting; that she spoke about the history of what happened and it set a good tone; that many

were disturbed that the coordinator position had remained unfilled for such a longtime and he thought it did have to be high priority and Mr. Rolan had made that high priority now; and upon questions, Ms. Garcia stated that they met monthly at the Montrose Library every Saturday morning and would ride the routes and evaluate and forward notes to the engineering department of Public Works and they had a good relationship with the engineers in the bikeway program, but it seemed like the traffic engineers and the engineers in the bikeway program were not always coordinating their efforts. Council Member Quan stated that he would like for him and other Council Members to stay posted about what was going on because he thought it was very constructive dialogue and Public Works had brought quite a few people to answer questions and if there was anything Council could do she should call and let them know. Ms. Garcia reiterated that one bicycle coordinator was not going to be able to cover the material needed; that she would suggest having one person from Houston who knew the route and understood but to also possibly bring in someone from another city which had implemented a large program and knew the right procedures. Council Members Tatro, Boney and Vasquez absent.

Council Member Sanchez stated that last week they had talked about placing the bikeway routes on the City's web site; and he wondered if that had been done. Mayor Brown stated that had not been done, but it was being worked on and he would try and find out when. Council Member Boney absent.

Council Member Goldberg stated that at the townhall meeting many opponents were upset with the inconvenience factor of retrofitting the streets and cyclists were upset they were traveling on streets not designed for bicycling and their lanes were not correct; that he thought it should be incumbent on designers and engineers when there was a new construction project to take a look at the possibility of adding a bike lane; and he did support their efforts. Ms. Garcia stated that to reinforce his point the Inner Modal Surface Transportation and Efficiency Act signed by President Bush in 1991 did state that all new roadways should include accommodations for bicyclists and pedestrians and the new transportation act went further and said you could not eliminate established streets for bicyclists and pedestrians; that the Texas Department of Transportation issued a memo in 1994 stating all new roadways should have provisions for bicyclists and pedestrians and the City of Houston issued a memo to all engineers stating that all new Houston roadways should have those accommodations beginning in July of this year so the rhetoric was there but no one was being held to it.

Mayor Brown thanked Ms. Garcia for coming and stated that it was unfortunate the Bicycle Committee was not notified and the lanes on West Dallas were done away with and they would make sure it did not happen in the future; that the coordinator's position was advertised and he would meet with Mr. Rolan to see that appropriate attention was given as many agreed it was a very important issue.

Mr. Dan Lundeen, 217 Stratford, Houston, Texas 77006 (713-652-2555) appeared, presented information to Council Members and stated that bicycling went a long way in the quality of life department reducing pollution and easing traffic congestion and improving the attractiveness of neighborhoods and making healthy citizens; that he was present to speak on the rash re-stripping of streets such as West Dallas, it was a waste of tax dollars to put stripes down and then take back up; that perfectly safe streets were torn up and in their place they were given substandard width lanes which excluded bicyclists

from safe transportation with reducing the distance from out of control motorists and pedestrians; that substandard width lanes were defined in the Texas Transportation Code as a lane too narrow for a bicycle and car to safely share side by side, basically anyone in less than 14 feet was substandard, and the decision by the city to remove the bike lanes had created substandard decisions; that he heard they were permanently removed and flew off the handle and filed a complaint with the Federal Highway Administration which was what he had presented to Council, basically he had noted it violated Federal Transportation Funding Statutes as well as would lose project funding; that it violated the Clean Air Act, the SIP, and also risked a lot of federal transportation funding for the entire region. Council Member Castillo absent.

Upon questions by Council Member Keller, Mr. Lundeen stated that many cities shared bicycle/bus lanes, but busses did not travel as fast as you might think, you could get anywhere in Houston faster on a bicycle than you could on METRO, but he had suggested to the city in those situations to erase the bike lane and make a 14 foot outside curb lane and that allowed motorists to stop next to the curb but still left enough room for the bicycle to travel safely and he thought most bicyclists would be happy to share a curb lane and he felt that reconstruction to widen streets would be a legitimate use of bikeway money.

Council Member Quan stated that he had received his E-Mail regarding West Dallas and he too was appalled because he thought they had all the people present from the city who would know and felt the spirit was to share information; that it was his hope they could work together on implementing and notification and as a fellow lawyer he hated it when they had to end up filing formal complaints with federal agencies because they could not get action locally, but he was committed to try and get things done here.

Upon questions by Council Member Bell, Mr. Lundeen stated that the letter he presented to Council was a copy of what he had filed; that the worst section of Buffalo Bayou seemed to be on the east end going into downtown, but under I-45 on the north side where they were doing construction they had a sign up which said "Sidewalk Closed" and you could see all the debris which had fallen; that on the south side there were no barricades but were places with two to three inches of mud on the trail and some debris; that there were also problems in the width of the trail, it was supposed to be at least 10 feet wide with three feet of clearance on either side and now it looked to be six and sometimes it was only one or two feet wide.

Ms. Evie Gordwin, 6511 Beldart, Houston, Texas 77087 (713-644-0235) had reserved time to speak, but was not present when her name was called

Mr. Dathan Martin, 320 Hamilton, Houston, Texas 77002 had reserved time to speak, but was not present when his name was called

Mr. Trent Winters, 7967 W. Airport, Houston, Texas 77071 (713-729-1153) had reserved time to speak, but was not present when his name was called

Mr. Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 had reserved time to speak, but was not present when his name was called

Ms. Linda Petrovich, 7202 Oak Village, Humble, Texas 77396 (281-441-1143) had reserved time to speak, but was not present when her name was called

Mr. William Perkins, 2017 Morse, Houston, Texas 77018 (713-523-4562) appeared, presented information and stated that in 1998 he tried to get information on a statistical analysis of traffic citations demographically in the City of Houston and under the open records act he was able to get traffic citations fairly easy but in order to do any meaningful statistical analysis you had to have the pool to analyze, not just the population pool but the population of drivers broken down by demographic and population of registered voters, but unfortunately Texas State Law prohibits any individual from getting the information; that he had gone through the Federal Government trying to get the information and noticed that as officials of city government the Council Members could request the information; that instead of having officers write down the race of people being stopped which effectively would taint the experiment they could quickly answer the question was there a problem in the City of Houston with officers and their citations and if any discrimination was taking place.

Upon questions by Council Member Parker, Mr. Perkins stated that he had been working on this three years; that he had a traffic stop and there was nothing wrong with it he was guilty, but when in the court house he did a quick count of the people by race and 80% to 82% were Hispanic or African American descent and that did not necessarily mean anything as there were social and economic reasons why there might be Blacks or Hispanics in court, but the problem he had when he decided to check was that the information was not available to him so he was begging Council to request the information and then the question which had been going on for years in Houston could be answered once and for all. Council Member Parker stated that she knew it was legal for a political entity to request a racial and ethnic breakdown of drivers license holders and that the Mayor had been interested and she thought it would be helpful if they could have an update from the Police Department on the racial profiling study; and Mr. Perkins stated that if you took an experiment and asked people to write down what cereal they liked they became aware of the experiment and altered the results; that he felt you would have a greater chance of having unbiased results if information was requested and there would be no need for any further money or programs to be done. Council Member Sanchez absent.

Upon questions by Council Member Boney, Mr. Perkins stated that he had been in touch with the Federal Government Department of Transportation, etc., he had not really alerted anyone else about his information because he had not been able to present anything. Council Member Boney stated that he would suggest he contact the Leadership Conference on Civil Rights in Washington, D. C. as they were the largest coalition of civil and human rights in the country and an issue like racial profiling would be a part of their work; that recently there was a major racial profiling march and conference carried out by the Center for Constitutional Studies headed by Mr. Juan Daniels and that entire weekend of activities was recorded by CSPAN and he felt it may put him in the right track for strategy, process and direction; and Mr. Perkins stated that once numbers were collected and he had an analysis to present he thought they would definitely be helpful in a follow-up analysis, but right now each Council Member had the ability as individuals of the Council as a whole, to request that information. Council Members Todd and Sanchez absent.



Upon questions by Mayor Brown, Mr. Bibler stated that the statute said the city could request the information but only for government purposes so he could not see how it could be turned over to anyone, but he was curious, in reading the response Mr. Perkins received from the DPS he was wondering if they understood that he was only looking for statistic data and not a list of everyone with a drivers license and their ethnicity. Mr. Perkins stated that he said he was not asking for specifics only a breakdown, but they believed he may turn it over to an insurance company and they used that information to raise rates in one area, etc., which was the original reason for the statute; and Mr. Bibler stated that made sense. Council Members Todd and Sanchez absent.

Mayor Brown stated that he would echo what Council Member Boney had said; and Mr. Perkins stated that he had worked on this quite a while and it was a simple request for numbers. Mayor Brown stated that Mr. Bibler had said they could request it but not give it; and Mr. Perkins stated that if they requested it someone had to do the analysis and he had the training to do it for them and they would not have to spend more time or money on it. Council Members Todd and Sanchez absent.

Council Member Boney stated that any reluctance was not disinterest, but caution and the reality of what they had to deal with and if he would go down the paths they talked about he would have progress and then they could have more discussion. Council Members Todd and Sanchez absent.

Mr. James Partsch-Galvan, 1611 Holman, Houston, Texas 77004 (713-528-2607) appeared and stated that he had a new E-Mail address, [galvaloution@yahoo.com](mailto:galvaloution@yahoo.com) and [galvan666@aol.com](mailto:galvan666@aol.com) and [galvan2001@hotmail.com](mailto:galvan2001@hotmail.com) and his web site address was [www.galvan.org](http://www.galvan.org) and for the record he was a registered Libertarian who voted for all Libertarians on the ballot except U. S. President where he voted for Ralph Nader; that he ran for office six times and next year would be his seventh and the letter G was the seventh letter in the alphabet and the G-Revolution would ultimately succeed; and METRO Board President Shirley DeLibero should be fired for lying. Council Members Todd and Sanchez absent.

Mr. Dathan Martin, 320 Hamilton, Houston, Texas 77002 was recalled and appeared and stated that he came for a job, he had tried other avenues but they did not work; that he would request to speak with Mayor Brown and his Council Member, Jew Don Boney, that hiring practices in the Human Services Department was unfair. Council Members Todd and Sanchez absent.

Upon questions by Council Member Boney, Mr. Martin stated that when he first wanted to try and work for the city he did not know where to go so he looked for the street workers, but they were all Hispanic so he did not know they were street workers he thought they were voluntary for the Cinco de Mayo Parade. Upon further questions by Council Member Boney, Mr. Martin stated that when he applied he did so for maintenance, custodian, dog catcher trainer, sewer, etc., he applied over 20 times; that he had two interviews, one last week and one upcoming. Council Member Boney stated that Council Members had no authority with regard to Human Resources, but they would send them a letter asking that his specific applications be reviewed; that he did want him to realize the positions were very competitive and there were more people applying than there were to fill; and Mr. Martin stated that it was like you had to have a degree in

Butt Astrology which meant you had to know somebody; that you could not tell him someone would not just hire their brother in law. Council Member Boney stated that he was sure the Mayor would have someone look into it, but he would also ask someone from his staff to write a letter on his behalf; that they wanted everyone treated fairly. Council Members Todd and Sanchez absent.

Mayor Brown stated that he would ask Mr. Cantu to sit with him and get all the information to see what had transpired and see how assistance could be provided to him. Council Members Todd and Sanchez absent.

Council Member Boney stated that he would also refer Mr. Martin to the Urban League because they not only referred jobs but trained; and Mr. Martin stated that he tried that and he was a veteran and it was hard to pledge allegiance to it when it did not to him. Council Members Todd and Sanchez absent.

At 3:05 p.m. upon motion by Council Members Castillo and Ellis the City Council recessed until Wednesday, November 29, 2000 at 9:00 a.m. Council Member Robinson absent on personal business. Council Members Todd and Sanchez absent.

City Council Chamber, City Hall, Wednesday, November 29, 2000

A Regular Meeting of the Houston City Council was held at 9:00 a.m. Wednesday, November 29, 2000, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Jew Don Boney, Jr., Rob Todd, Mark A. Ellis, Bert Keller, Gabriel Vasquez, John E. Castillo, Annise D. Parker, Gordon Quan, Orlando Sanchez, Chris Bell and Carroll G. Robinson; Mr. Anthony Hall, City Attorney, Mr. Al Haines, Chief Administrative Officer, Mayor's Office, Ms. Martha Stein, Agenda Director.

At 8:30 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

At 9:13 a.m. Mayor Brown called to order the meeting of the City Council. Council Member Parker absent.

### **MAYOR'S REPORT**

The City Secretary stated that the Consent Agenda started with Item No. 2, that Item No. 1 was on the agenda and postponed until today and under the rules of Council she had placed it at the end of the agenda at this time. Council Member Parker absent.

### **CONSENT AGENDA NUMBERS 2 through 28**

### **ACCEPT WORK** - NUMBER 8

8. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$6,358,230.61 and acceptance of work on contract with **BRH-GARVER, INC** for Construction of 84" Water Main along Glenarm, Lee and Lockwood, GFS S-0900-33-3 (9750-2) - 00.72% under the original contract amount - Enterprise Fund - **DISTRICTS B - GALLOWAY and H** –



**VASQUEZ** – was presented, moved by Council Member Sanchez, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Parker absent. MOTION 2000-1438 ADOPTED.

**PROPERTY** – NUMBER 9

9. RECOMMENDATION from City Attorney to deposit the amount of the Award of Special Commissioners into the Registry of the Court, pay all costs of Court and not file any objections to the Award in connection with eminent domain proceeding styled City of Houston v. Calmaf Texas Investments I, et al, Cause Number 731,441; for acquisition of Parcel G99-1 for the **SCENIC WOODS LIBRARY EXPANSION PROJECT**, CIP/GFS E-0090-00-1 - **DISTRICT B - GALLOWAY** – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Parker absent. MOTION 2000-1439 ADOPTED.

**PURCHASING AND TABULATION OF BIDS** - NUMBERS 10 through 14

**LOW BIDS**

10. **MERIDIAN COMMERCIAL, INC** to Furnish and Install Barrier Netting for Parks & Recreation Department - Replacement - \$52,000.00 and contingencies for an amount not to exceed \$54,600.00 - Park Special Revenue Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Parker absent. MOTION 2000-1440 ADOPTED.

**OTHER**

12. **AMEND MOTION #99-184, 2/10/99, TO INCREASE** quantity and amount to purchase one additional Trailer-Mounted Sewer Cleaner for a total increase of \$23,732.00 for Department of Public Works & Engineering, awarded to **KINLOCH EQUIPMENT & SUPPLY** - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Parker absent. MOTION 2000-1441 ADOPTED.
14. **BRH-GARVER, INC** for Emergency Sewer Line and Manhole Repairs for Department of Public Works & Engineering - \$66,000.00 - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Parker absent. MOTION 2000-1442 ADOPTED.

**ORDINANCES** - NUMBERS 15 through 28

15. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of two (2) five-foot wide utility easements located on Block 29, Lindale Park, Section 5, John Austin Survey; vacating and abandoning said utility easements to Accurate Control Company Incorporated, the abutting owner, in consideration of the owner's dedication of a ten-foot-wide waterline easement and the payment of \$2,326.00 and other consideration to the City - **DISTRICT H – VASQUEZ** – was presented. All voting aye. Nays none. ORDINANCE 2000-1038 ADOPTED.

16. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of Big Sandy Road, from Holmes Road to State Highway 288, and of Stassen Road and Rosemont Street, from Big Sandy Road to State Highway 288, all located in the Southerland Place Subdivision; vacating and abandoning said street rights-of-way to 288/Holmes Venture, the abutting owner, in consideration of owner's payment of \$36,733.00 and other consideration to the City - **DISTRICT D - BONEY** – was presented. All voting aye. Nays none. ORDINANCE 2000-1039 ADOPTED.
17. ORDINANCE consenting to the addition of 2.4896 acres of land to **HARRIS COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 84**, for inclusion in its district – was presented. All voting aye. Nays none. ORDINANCE 2000-1040 ADOPTED.
18. ORDINANCE consenting to the addition of 102.13 acres of land to **MALCOMSON ROAD UTILITY DISTRICT**, for inclusion in its district – was presented. All voting aye. Nays none. ORDINANCE 2000-1041 ADOPTED.
23. ORDINANCE approving and authorizing contract between the City and **ELECTRONIC DATA SYSTEM CORPORATION, INC** for Alarm Tracking, Billing and Collections for the Houston Police Department; providing a maximum contract amount - 5 Years with two one-year options \$6,766,538.00 - General Fund - had not been received, and the City Secretary announced it would be considered at the end of the Agenda if received during the meeting.
25. ORDINANCE appropriating \$120,000.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and approving the purchase of Lot 15, Lakeview Park, an unrecorded subdivision in the J. Skorupski Survey, Abstract 720, Houston, Harris County, Texas, and the improvements located thereon for the Expansion of Bush Intercontinental Airport, CIP A-0024, and approving a Purchase and Sale Agreement with Viola Carrio to acquire the land for a purchase price, including Title Insurance and Closing Costs, which does not exceed the sum hereby appropriated - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. ORDINANCE 2000-1042 ADOPTED.
26. ORDINANCE appropriating \$425,000.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and approving the purchase of 3.196 acres out of the J. Skorupski Survey, Abstract 720, Houston, Harris County, Texas, and the improvements located thereon for the Expansion of Bush Intercontinental Airport, CIP A-0024, and approving a Purchase and Sale Agreement with Billy H. Ragan to acquire the land and improvements thereon for a purchase price, including Title Insurance and Closing Costs, which does not exceed the sum hereby appropriated - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. ORDINANCE 2000-1043 ADOPTED.
27. ORDINANCE appropriating \$123,000.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and approving the purchase of Lot 17, Lakeview Park, an unrecorded subdivision in the J. Skorupski Survey, Abstract 720, Houston, Harris County, Texas, and the improvements located thereon for the Expansion of Bush Intercontinental Airport, CIP A-0024, and approving a Purchase and Sale Agreement with Michael L. and Melanie Muse to acquire the land for a

purchase price, including Title Insurance and Closing Costs, which does not exceed the sum hereby appropriated - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. ORDINANCE 2000-1044 ADOPTED.

**MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:**

**MISCELLANEOUS**

2. RECOMMENDATION from Finance & Administration Department for allocation of funds in the amount of \$78,156.00 on contract with **STORAGE TECHNOLOGY CORPORATION** for Software License and Software/Hardware Maintenance for Finance & Administration Department for FY01 General Fund – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. MOTION 2000-1443 ADOPTED.
3. ORDINANCE appropriating \$39,690.00 out of Public Library Consolidated Construction Fund as additional appropriation for Renovation of Smith Branch Library-Interior under construction contract with **R. H. TONETTI COMPANY**, GFS E-0063-02-3; (Approved by Ordinance #99-1400), providing funding for contingencies relating to construction of facilities financed by the Public Library Consolidated Construction Fund - **DISTRICT D – BONEY** – was presented, and tagged by Council Member Sanchez.

Council Member Keller stated that he would most likely vote no on this next week, and realized that people would say who was going to sue whom and all that, and his point was to let the contractor, architect and the construction manager figure that out, that it was one of those three entities that caused this delay and overage it was not the taxpayers of Houston, yet once again they were the ones that were going to be asked to pay for that when the human error occurred, that he was going to be looking at it a little closer since Council Member Sanchez tagged the item.

Mayor Brown stated that he wanted to point out that the change orders were all approved by the City Council prior to their being implemented.

Council Member Boney stated that the library was in his district and he did not know what research other Council Members had done, that when the matter first came about they had authorized some renovation monies and basically a face lift for the Smith Branch Library, that upon being implemented they found that there was a tremendous amount of infrastructure work that needed to be done that could not be perceived without getting into the construction and so basically almost an entire infrastructure renovation effort was required, it was not something that had been anticipated by the Library Department, that the library had now been closed and temporarily relocated for over a year, so it was important that it be expedited as soon as they could possibly do so.

Council Member Keller stated that this was a time cost, that they were paying somebody for time which he thought should be sometimes included in the calculation of the original bid, that he felt it was a good faith issue on those entities, that they should not have to pay for that delay.

Council Member Sanchez stated that he thought his question could be answered but his concern was on the change order, that the Mayor had just stated that all change orders had been approved, that Item 3A was for approval of Change Order No. 4, that it was his understanding that the work had already been done and again they were being asked to rubber stamp an expenditure that a department had made without Council approval and that was his issue.

Mayor Brown stated that they would get an answer to all of their questions, but all of the change orders over the 5% had been approved by Council.

- 3a. RECOMMENDATION from Director Building Services Department for approval of Change Order No. 4 in the amount of \$39,690.00 on contract with **R. H. TONETTI COMPANY** for Smith Branch Library, GFS E-0063-02-3 - **DISTRICT D - BONEY** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez, and tagged by Council Member Keller.

#### **DAMAGES**

4. RECOMMENDATION from City Attorney for settlement of lawsuit styled **JIMMIE L. BENTON** v. City of Houston, et al; Cause No. H-99-1962; in the United States District Court for the Southern District of Texas, Houston Division - \$55,000.00 - Property and Casualty Fund – was presented.

Council Member Quan stated that he knew Mr. Benton personally, that he was a Federal Immigration Judge and a member of the Texas National Guard, that he appreciated both the Legal and Police Department giving him a briefing on the matter and wanted to make sure that instances of this matter did not occur in the future, that Mr. Benton was jogging in the park and was arrested by the police on charges that could not be justified, that he wanted to make sure that they offer their apologies to Judge Benton for the outrage and recommended that they support the item.

Council Member Todd stated that he had followed the issue too and had seen the backup that came from HPD and the Legal Department and wanted to be reassured that the policies of what they could ask a person for when they were in custody or under arrest had been firmly communicated to the police officers, and asked if there was a new copy out of the procedure manual.

Mayor Brown asked if Chief Storemski was present so he could answer, and Mr. Anthony Hall stated that he could answer that specific question, because he had misstated the issue.

Mr. Hall stated that the issue was not what they could do when somebody was arrested or in custody, it was when they were not and that was the real problem and question here, that this person was not in custody and had not been arrested for anything and there had been, from the chief, a letter issued clarifying that it was not either the practice or the law in the Houston Police Department or the State. Council Member Boney absent.

Council Member Todd stated that he had seen the memo and was a little confused because the memo kind of danced around the issue and asked if there was going to be

a new procedure manual put out, and Mr. Hall stated yes, that there had been some confusion about even that one and who authored it and why, that he had visited personally with the chief and it was going to be clarified so that officers had no misunderstanding at all about that issue. Council Member Boney absent.

Council Member Todd stated that he understood how an officer would be confused about what they could ask for, the memo from the chief states that the best source for that information was the statute itself, and Mr. Hall stated that if a person has not been arrested and there was not probable cause to arrest the person they could not in fact arrest them for mere failure to identify when there was nothing else that they had either been charged with or taken into custody for, and Council Member Todd stated that he would be supportive of HPD putting out a new procedure manual, and Mr. Hall stated that they had put out the memo, but had not talked about publishing a manual on that issue. Council Member Boney absent.

Upon questions by Council Member Keller, Mr. Hall stated that it was a very simple matter and in reality could be made confusing, but the mere failure to identify yourself to a police officer, with nothing else, was not grounds to arrest somebody in this State, and Council Member Keller stated that this person was a very well educated man and a judge and knew the situation, that he would take Council Member Quan's word that he was not possibly taking advantage of the situation by not giving his name knowing that the domino effect could occur, which had occurred and he was going to get \$55,000.

Council Member Quan stated that he was not a radical individual or a person who had total disregard for the law, that he hated to suppose a certain circumstance but he would imagine that the officers were probably not the most friendly when they apprehended him or stopped him on the street and were probably fairly rude to him which led him not to give his identity, which he had every right not to do, that he hoped they learned from this lesson, as far as how they treated people, that he wanted to make sure that was in the policy as well.

Council Member Castillo stated that he believed that although this was probably a common occurrence around the City everyday, it could have tragic circumstances where somebody does not understand that the mere failure to identify, if they are detained, was cause for arrest.

Council Member Castillo moved to suspend the rules to hear from Chief Storemski at this time, seconded by Council Member Parker. All voting aye. Nays none. MOTION 2000-1444 ADOPTED.

Upon further discussion by Council, Council Member Castillo asked at what point did somebody know whether they were under arrest or when they were detained, that his understanding was that if you were free to leave then you were not detained, but people did not know that and were not told that normally when they are stopped.

Chief Storemski stated there was a distinction between being detained or being arrested, that an officer could detained someone to inquire about suspicious circumstances, but could only arrest if he had probable cause, and in legal terminology there was a distinction between those two, that under the State statute you cannot be charged with failure to identify unless there is probable cause to affect an arrest, in this instance they stopped the individual under

suspicious circumstances, they had reasonable cause to stop him, but they had no probable cause to charge him with an offense, so consequently his failure to identify did not meet the requirements of the State statute and it was a mistake on the part of the officers, that when he refused to give his name they inappropriately charged him with failing to identify and that way it was improbable.

Mayor Brown asked if an Assistant District Attorney review the arrest prior to the person being booked, and Chief Storemski stated no, that it was a Class C misdemeanor which would not have been under the purview of the District Attorney's office, they reviewed Class B and above, so the officer did not inquire to a City prosecutor or anyone else.

Council Member Robinson stated that he had the same concerns that Council Member Castillo did, that if they were not clear with the officers on something like this they could get into a pretty slippery slope because if they stopped somebody and they did not have a drivers license or proof of insurance they were going to start picking up everybody in the City and they issued a lot of traffic tickets out there for that, that he was like Council Member Quan, he did not want to make any assumptions, he just wanted to make sure of any confusion, forget the State statute, it was just basic constitutional law, basic bottom line, right to move around, that was recognized at the State and Federal level, that they should be careful and make sure everybody was clear and if there was any confusion in the memo they should make it reasonable and crystal clear that they could not arrest people after they stopped them because they did not have a drivers license or they would not tell them their name. Council Member Robinson absent.

Mayor Brown asked Chief Storemski if they had a good set of policy and procedures at the Police Department and he stated yes, and Mayor asked if this was covered in that set of directive documents and Chief Storemski stated that the chief issued a circular clarifying the information to the officers, that there had been a training booklet that someone had published and there was some incorrect information in that and that had been corrected through the memo also, that the bottom line was that officers were expected to know the law and understand the elements of various offenses before they filed charges.

Upon questions by Council Member Sanchez, Chief Storemski stated that no the officers were not acting according to department policy at the time the situation occurred, that their interpretation of the scope was incorrect, that the need for change was that there was a circular issued to clarify the distinction between failure to identify and providing a fictitious name, that there were two different statutes, that the giving of a fictitious name could be charged under those particular circumstances, but failure to identify could not, that he did not want to make excuses, but it was understandable how someone who was not up on it could be wrong.

Council Member Tatro stated that he understood that absolutely no disciplinary action was taken on the officer, and he understood that part of the reason was that while there was possible litigation and a disciplinary action would have been tantamount to admitting guilt, but clearly when the law did not exist or when a false arrest had been predicated on a policy decision not to discipline with respect to admitting guilt was bad policy, that was a policy decision by the Police Department, that it was a significant matter when dealing with the public, and Chief Storemski stated that it was not the department policy not to take action they were guided by State statute and under State statute they could not discipline an officer beyond 180 days after the even occurred, that they did not become aware of the event until



the lawsuit was filed and it was his understanding that it was filed almost at the end of the statutes of limitations, that there was no grievance filed, so the department's clock had already run on being able to take this one, that they could issue a reprimand but that was as high as they could go in terms of disciplinary action, and Council Member Tatro stated that he wanted to know more specifically the time frame. Council Member Castillo absent.

Upon questions by Council Member Robinson, Chief Storemski stated that there was documentation that the arrest had occurred, but the department officially was not aware that it was an improper charge until the lawsuit was filed.

Mr. Hall stated that the incident occurred in 1997, and the first notice that the City had that there was a claim to be made was in 1999, that the timeframe had already run, that it was obviously only one of any number of incidents during the course of processing people in and out of jail, so when there was not a complaint made nobody other than the arresting officer is particularly aware of any peculiar circumstances surrounding it, that was the problem, that he spent four hours in jail.

Council Member Keller asked Chief Storemski if it was the law that if a police officer came up to him and asked his name would he have to give it, and he stated no, that was the issue here, that unless he was under arrest, that typically the department gets prowler or suspicious calls regularly and typically what the officer does if he finds someone who fits that description they will stop and inquire and detain them momentarily to find out if they live in the neighborhood and then the officer moves on. Council Members Goldberg, Ellis and Robinson absent.

Council Member Tatro asked if there was any record of the incident in the officer's file and Chief Storemski stated he did not know, that there was a record in the department. Council Members Goldberg, Ellis and Robinson absent.

Council Member Boney asked what the gentleman arrested for and Chief Storemski stated that he was arrested and charged with failure to identify which was an improper charge because the officer had to have probable cause to arrest him in the first place, and Council Member Boney asked if the officer had ever explained what the probable cause was and Chief Storemski stated that he did not have that information, but his assumption would be that they misunderstood the statute and thought that failure to identify was a legitimate charge. Council Members Tatro, Goldberg, Ellis and Robinson absent.

Council Member Todd stated that it looked to him from the backup like the allegation against the officers and the citation was that the officers were arresting the individual based on an invalid statute or unconstitutional statute.

Mr. Hall stated that was incorrect, that the officers were under the impression based on information they said they had received at some point in the police academy that it was appropriate to arrest somebody for failure to identify themselves, that was incorrect and had not been the law and was not the law and they now knew because of the memo that it was not the law.

Council Member Todd stated that before they put anything in the officer's file they ought to decide if the blame went to them or whoever made the manual, and Chief Storemski stated it was not a manual, it was an information booklet that someone in the academy had produced

and was kind of a quick reference on various statutes and that little booklet misstated the statute, that it had been corrected. Council Members Goldberg, Keller and Parker absent.

Mayor Brown asked if whatever was the cause of confusion had been corrected, and Chief Storemski stated yes. Council Member Parker absent.

Council Member Bell moved to call the question, seconded by Council Member Vasquez. All voting aye. Nays none. MOTION 2000-1445 ADOPTED.

A vote was called on Item No. 4. All voting aye. Nays none. MOTION 2000-1446 ADOPTED.

5. RECOMMENDATION from City Attorney for settlement of lawsuit styled **SHONTAE DARRELL BRITTON**, et al. v. City of Houston, et al; in the United States District Court for the Southern District of Texas, Houston Division, Civil Action No. H-98-0743 - \$25,000.00 - Property and Casualty Fund – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez.

Council Member Quan stated that after having discussed Item No. 4, on Item No. 5 he just wanted to say thank you to the police department and the City Attorney's office, that it was a matter where a life was taken and while that was never something to be taken lightly he thought in this case the police certainly did follow policy and sought to prevent actions against a young child and so he felt that they were justified at what happened, that he did wish to follow up with the police department on their policy of using deadly force in the future.

A vote was called on Item No. 5. All voting aye. Nays none. MOTION 2000-1447 ADOPTED.

6. RECOMMENDATION from City Attorney for settlement of lawsuit styled **RICHARD PAUL SETZER** and **DIANE SETZER** v. City of Houston, et al; in the 11th Judicial District Court of Harris County, Texas; Cause No. 98-60067 - \$45,000.00 - Property and Casualty Fund – was presented, moved by Council Member Vasquez, seconded by Council Member Tatro. All voting aye. Nays none. MOTION 2000-1448 ADOPTED.

### **ACCEPT WORK**

7. RECOMMENDATION from Director Building Services Department for approval of final contract amount of \$1,585,719.00 and acceptance of work on contract with **LETSOS COMPANY** for Jones Hall Improvements - Chiller Replacement, GFS B-0038-01-3 - 09.55% over the original contract amount - Enterprise Fund - **DISTRICT I - CASTILLO** – was presented, seconded by Council Sanchez, seconded by Council Member Vasquez.

Council Member Keller stated the he had called Letsos and the change orders were justified and thought that they provided good work to the City, but what he hoped was that the Building Services Department, anytime there was going to be an overage such as this of close to 10%, that they would take it upon themselves, when the agenda

came out, to go ahead and schedule a meeting with him so he would not have to call the contractor. Council Member Todd absent.

Mayor Brown stated that the change order was approved by Council prior to its being carried out. Council Member Todd absent.

A vote was called on Item No. 7. All voting aye. Nays none. MOTION 2000-1449 ADOPTED. Council Member Todd absent.

## **PURCHASING AND TABULATION OF BIDS**

### **OTHER**

11. **AMEND MOTION #99-1329, 7/27/99, TO INCREASE** spending authority by \$530,061.14 from \$2,120,244.56 to \$2,650,305.70 for Fuel, Diesel Low Emission for Finance & Administration and Other Departments, awarded to **ADA RESOURCES, INC** - Central Service Revolving Fund – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Todd absent. MOTION 2000-1450 ADOPTED.
13. **AMEND MOTION #97-1350, 8/8/97, TO EXTEND** expiration date for three months from December 6, 2000 to March 5, 2001, for Fire Hydrants for Department of Public Works & Engineering, awarded to **ACT PIPE & SUPPLY, INC (Bid No. 1)** – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Todd absent. MOTION 2000-1451 ADOPTED.

## **ORDINANCES**

19. ORDINANCE authorizing issuance of City of Houston, Texas, Public Improvement Refunding Bonds, Series 2000, prescribing the terms and form thereof; providing for the payment of the principal thereof and interest thereon; awarding the sale of the Bonds and authorizing execution of a purchase contract; ratifying the use of a Preliminary Official Statement and authorizing the preparation and distribution of an Official Statement to be used in connection with the sale of the Bonds; authorizing the Refunding and Defeasance of certain outstanding Notes and Bonds, the execution and delivery of Escrow Agreements, the purchase of and subscription of certain securities and the use of certain funds related to the Bonds and Notes to be defeased; authorizing Escrows verification; making other provisions regarding such bonds and matters incident thereto; authorizing execution and delivery of a Paying Agent/Registrar Agreement and Co-Bond Counsel Agreement and Special Disclosure Co-Counsel Agreement; and declaring an emergency – was presented. All voting aye. Nays none. Council Member Todd absent. ORDINANCE 2000-1045 ADOPTED.
20. ORDINANCE approving and authorizing agreements terminating Tax Abatement Agreements between the City of Houston and **NABISCO INCORPORATED**; and **ALTURA ENERGY, LTD** and **TWO WESTLAKE PARK, Limited Partnership** – was presented. All voting aye. Nays none. Council Member Todd absent. ORDINANCE 2000-1046 ADOPTED.

21. ORDINANCE approving and authorizing lease agreement between **RM CROWE HOUSTON PORTFOLIO, L.P.**, landlord, and the City of Houston, Texas, as tenant, for space at 601 Sawyer Street, Houston, Texas, for use by the Fire Department - **DISTRICT H – VASQUEZ** – was presented, and tagged by Council Member Keller. Council Member Todd absent.
22. ORDINANCE approving and authorizing lease agreement between **RM CROWE HOUSTON PORTFOLIO, L.P.**, landlord, and the City of Houston, Texas, as tenant, for space at 601 Sawyer Street, Houston, Texas, for use by the Housing & Community Development Department **DISTRICT H – VASQUEZ** – was presented, and tagged by Council Member Keller.

Council Member Keller stated that he hoped someone would come and see him soon, that he had some questions.

24. ORDINANCE amending Ordinance No. 99-554, to increase the maximum contract amount and approving first amendment to contract between the City and **GOODWILL INDUSTRIES OF HOUSTON** for Cleaning and Janitorial Services at the Zoo for the Parks & Recreation Department - \$382,915.22 - General Fund – was presented. All voting aye. Nays none. ORDINANCE 2000-1047 ADOPTED.
28. ORDINANCE approving and authorizing and authorizing professional services contract between the City of Houston and **HOUSTON CLEAN CITY COMMISSION, INC D/B/A KEEP HOUSTON BEAUTIFUL** for the City's Clean Neighborhood Program - \$350,380.00 - General Fund **DISTRICTS B - GALLOWAY; D - BONEY; H - VASQUEZ and I - CASTILLO** – was presented. All voting aye. Nays none. ORDINANCE 2000-1048 ADOPTED.

#### **END OF CONSENT AGENDA**

#### **NON CONSENT AGENDA** - NUMBERS 29 and 30

#### **PROPERTY**

29. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from C. L. Davis of C. L. Davis & Company, on behalf of Houston Independent School District (HISD), for abandonment and sale of Piccadilly Drive, from Dillon Street north to its dead-end terminus; a sanitary sewer easement; two utility easements; three aerial easement; and two guy easements, all located in the J. R. Harris Survey, and a right of entry for Houston Independent School District, Parcels SY0-059A-H and SY1-015 - **APPRAISERS - DISTRICT I - CASTILLO** – was presented.

Council Member Castillo named Mr. Frank Flores and Mr. Tom Bazan as the appraisers and moved for approval of the recommendation, seconded by Council Member Tatro. All voting aye. Nays none. MOTION 2000-1452 ADOPTED.

30. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from James C. Box

of Jim Box-Consultant, Inc., on behalf of Buffalo Marine Service, Inc (Patrick J. Studdert, president), for abandonment and sale of the dead-end portion of Front Street, between Frio Street and Buffalo Bayou, located in the former Town of Harrisburg, Parcel SY1-022 - **APPRAISERS - DISTRICT I - CASTILLO** – was presented.

Council Member Castillo named Mr. John Fonteno, Jr. and Michael D. Copland as the appraisers and moved for approval of the recommendation, seconded by Council Member Tatro. All voting aye. Nays none. MOTION 2000-1453 ADOPTED.

**MATTERS HELD** - NUMBERS 31 through 33

31. ORDINANCE amending Exhibit “A” of City of Houston Ordinance No. 2000-787 by adding three (3) District Chief Positions; substituting the amended exhibit as part of the current Fire Department Classified Personnel Ordinance; providing for severability – (**This was Item 8 on Agenda of November 21, 2000, TAGGED BY COUNCIL MEMBER TATRO**) – was presented. All voting aye. Nays none. ORDINANCE 2000-1049 ADOPTED.

32. ORDINANCE approving and authorizing the City of Houston to enter into first amendment and modification agreement with **HOUSTON AREA COMMUNITY DEVELOPMENT CORPORATION** to provide additional funding of \$112,890.00 for Single Room Occupancy (SRO) Housing Project located at 1414 Congress, to convert the maximum principal amount of the loan from a partial loan and partial grant to a performance based loan and to increase the term of the affordability period from fifteen to twenty years - Grant Fund - **DISTRICT I - CASTILLO** – (**This was Item 14 on Agenda of November 21, 2000, TAGGED BY COUNCIL MEMBERS QUAN, BELL, PARKER and GOLDBERG**) – was presented.

Council Member Goldberg moved to postpone Item No. 32 for one week, seconded by Council Member Sanchez. All voting aye. Nays none. MOTION 2000-1454 ADOPTED.

33. ORDINANCE appropriating \$4,500,000.00 out of Consolidated 2000 AMT Construction Funds, CIP A-0184, \$22,964,048.00 out of Consolidated 2000 AMT Construction Funds, CIP A-0377, and \$5,000,000.00 out of Consolidated 2000 AMT Construction Funds, CIP A-0377, awarding construction contract to **CHAMPAGNE-WEBBER, INC, TEXAS** and approving and authorizing professional services contract for engineering testing services with **GEOTECH ENGINEERING AND TESTING** for Terminal “C” Southeast Ramp Upgrade and Widening at George Bush Intercontinental Airport/Houston (IAH), Project No. 554 - **DISTRICT B – GALLOWAY** – (**This was Item 29c on Agenda of November 21, 2000, TAGGED BY COUNCIL MEMBERS KELLER and TATRO**) – was presented.

Council Member Tatro stated that before them was a much needed project on the airport, that the company that won the contract was a good company with good history and good safety record henceforth they had been able to do the work for the City at a very low cost of insurance and this was of course a contract being entered into the ROCIP program and as usual he had taken it upon himself to do an analysis of the numbers and whether or not it was beneficial for the City to enter the contract into the ROCIP program or whether the

contractor could furnish the insurance at a reduced cost to the City, that he had passed out to Council Members a couple of documents, that one was the standard document that they had been working with, an analysis of ROCIP and an analysis of each contract, the different scenarios that the administration had put forward, that as the spreadsheet showed, if they enrolled this contract in ROCIP with the use of the administrations very first numbers they would lose \$168,000 because their costs would be significantly higher, that even under the probable case, by entering this contract into the City's insurance program as opposed to letting him provide his own insurance they would loose \$71,000, that what was important to know was that they had been bantering back and forth with what were the true numbers of ROCIP and the administration since the day it came out had been backing off and changing its numbers, that he had attached a letter from the Hobbs group to Council Member Quan dated November 13, 2000, that on the first page they stated that they would calculate the City's ROCIP program costs at \$8.3 million, which was the probable case, so here they had the administration and the Hobbs group, who was administering ROCIP, at least agreeing that \$8.3 million was the City's cost, that he had disputed that but they had continually said they would use that number, that as the simple analysis pointed out, by using Hobbs numbers as stated in the letter and using the administrations numbers of probable case, that they would lose over \$70,000 by simply enrolling the contract in the ROCIP program and at no time had he made up any numbers, that he had simply used the administration numbers and the Hobbs numbers to continually put out an analysis of the program and why he believed it was a significant net loss to the City. Council Members Galloway, Castillo and Bell absent.

Council Member Tatro moved to refer Item No. 33 back to the administration, seconded by Council Member Ellis. Council Members Galloway, Castillo, Bell and Robinson absent.

Council Member Vasquez asked Mr. Haines to respond to some of the comments made by Council Member Tatro, and Mr. Haines stated that Ms. Mosley would address those specifically. Council Members Sanchez and Robinson absent.

Ms. Mosley stated that as they said before Council Member Tatro's methodology allocated losses as a percentage of payroll and that was not necessarily indicative of the risk associated with that project and therefore the real number related to that, that they did not believe there would be a loss, that Council Member Tatro's \$10.7 million number was not their probable case number, that he was using \$4.2 million which was the entire amount of the loss fund or the predicted losses which was the worse case, and also she was not sure where the ROCIP program administration costs were coming from, because in their probable case it was about \$960,000, that first of all his theory was wrong and second of all his \$10.7 million that he was allocating was around \$2.4 million too high, that his methodology was wrong and therefore produced wrong numbers. Council Member Sanchez and Robinson absent.

Council Member Tatro stated that he was not sure if Ms. Mosley received Hobbs letter of November 13, 2000 but they were the ones and she was the one, in their probable case, that indicate \$8.375 million was the probable case, that if she looked at his spreadsheet he tallied it up to \$8.375, and Ms. Mosley stated that perhaps she was misunderstanding his sheet, and Council Member Tatro stated that probable case was \$8.375, and Ms. Mosley stated that what Council Member Tatro showed on the probable case sheet was indeed probable case numbers but the methodology again was incorrect. Council Member Sanchez and Robinson absent.



Council Member Boney asked Ms. Mosley if her disagreement with Council Member Tatro's analysis was based on his methodology or on his numbers, and she stated on his methodology, that Hobbs numbers were correct, the \$8.4 million for probable case, and Council Member Boney asked Ms. Mosley what her assessment of Council Member Tatro's assertion that if they enrolled this project the City would lose \$70,000, and Ms. Mosley stated that again he was allocating all ROCIP cost based on a percentage of payroll, that payroll cost was not indicative of the risk of the work involved with the project and that was going to be their largest number, their loss number and could affect the outcome of the numbers, and Council Member Boney asked what would be a better way of determining risk, and Ms. Mosley stated that the better indication of risk would be the type of work that was done, was it high rise work, did it involve machinery and things like that and that was why they had to evaluate them on a project by project basis, and Council Member Boney asked how dangerous was the project that they were being asked to approve today, and Ms. Mosley stated that it was concrete work on the ground, and Council Member Boney asked how they evaluated their loss or gains, and Ms. Mosley stated that they relied on the consultants they hired and on Zurich, the insurance company they hired, and their experts and what they knew of the industry and the work that was being done, and they were saying it was a low risk job, and they stated that by enrolling it in ROCIP the insurance they would have paid for within the individual contractors contract was more than what they were going to pay when they looked at everything together, that their numbers showed they were going to save around \$60,000 on the project. Council Member Keller absent.

Council Member Quan stated that a letter from Ms. Culbreth dated November 20, 2000 stated that the City's estimated cost for providing insurance on Project 554 was \$216,500 and asked if that was correct and a solid number, and Ms. Mosley stated that was correct, that it was an estimate from Hobbs because they did not know what the actual losses would be, but based on the history of this kind of work, and Council Member Quan asked because the risk in the project was relatively low Hobbs could give them a number that was fairly low as well, and Ms. Mosley stated yes, that when they talked about risk being low, it was allocating amount for risk based on the percentage of payroll, that the theory under ROCIP was when they took all projects in aggregate they were better off, that in December at the Fiscal Affairs Committee Meeting they would have a report on the program. Council Member Galloway absent.

Council Member Sanchez asked Ms. Mosley what was her experience in the construction industry prior to ROCIP, and Ms. Mosley stated that she had no experience, but had talked at length with representatives from Zurich and Hobbs, and Council Member Sanchez asked Ms. Mosley if she had any empirical data from the industry, not from Hobbs Apex, that showed that the risk she had assigned to this project was actually based on data gathered by the industry. Council Member Galloway and Ellis absent.

Mr. Haines stated that those calculation tables were industry wide, that Zurich did not provide specious data, they were underwriting risk, not just as it related to this project, but tens of thousands of others that they insure, that if he would like, as part of their Fiscal Affairs Committee presentation, they would be happy to roll out as many experts as they would like to hear to give them an assurance that the actuarial work that went on was significant, and Council Member Sanchez stated that he was just saying that next time the administration made a statement that one job was more risky than the other one based on the following, that they go somewhere other than Hobbs Apex and their insurance underwriters to provide that data. Council Members Ellis and Castillo absent.

Council Member Boney stated that the purpose of hiring Hobbs Apex was to be their consultant and to advise them as to which projects made sense to enroll in ROCIP, that was part of their contractual responsibility. Council Member Castillo absent.

Mr. Haines stated that it was important to set the record straight, that Zurich was selected by the City of Houston under an RFP process, that Zurich was not going to give them any information that they could not themselves assure that they could underwrite safely with the risk assumption that they were willing to take on.

Council Member Vasquez asked if the basic fundamental difference between her estimate and Council Member Tatro's estimate was based on the assessment of risk, and Ms. Mosley stated that the problem with Council Member Tatro's methodology was that he allocated all costs as a percentage of payroll and that was incorrect primarily because of the claims estimate which was risk, that there was also a problem, all though not as big, with allocating administrative costs in that manner, but primarily it was the claims, and Council Member Vasquez asked what was the underlying logic for selecting the job versus the payroll within the context of creating a model, and Ms. Mosley stated that when Hobbs Apex looks at it they look at the risk factor, what type of work was going to be done, how risky did they think it was and what did they think the claims would be, that they base it on industry standards, past experience, what they think the claims cost would be related to that particular project, and Council Member Vasquez asked if her primary assertion was that the assessment of risk based on the type of job number one and number two, secondarily the administration costs, that those were the fundamental differences in the two models, and Ms. Mosley stated yes. Council Members Castillo and Bell absent.

Council Member Goldberg asked if when the contractor submitted his insurance costs it was also based on the type of project, and Ms. Mosley stated yes, and Council Member Goldberg asked if the contractors insurance rate depended on whether he was working on a high rise or a airport runway project, so naturally his costs would be lower for a project that had a low risk, and Ms. Mosley stated that they should be, that when they looked at their insurance they looked at their total rate, their price, that they did have the types of work lined out and the specific rates lined out and since that was the biggest part of the cost, yes, Council Member Goldberg was correct, and Council Member Goldberg asked that even taking that into consideration their ROCIP cost was going to be lower than their best insurance rate, and Ms. Mosley stated yes, that for this project it was. Council Member Castillo absent.

Council Member Tatro stated that the suggestion that risk was on project by project he found unbelievable, that the first day a laborer walks onto a tarmac or construction site, everything was at risk, that risk was constant at all times, that what the administration had failed to do in every single ROCIP analysis was that it had attributed no risk to anything and that was why their cost was \$216,500, that they did not even have the program administration costs, that those two factors added up to the \$8.37.

Council Member Castillo moved to call the question, seconded by Council Member Vasquez and a roll call vote was requested.

ROLL CALL VOTE:

Mayor Brown voting aye  
Council Member Tatro voting aye  
Council Member Galloway voting aye

Council Member Vasquez voting aye  
Council Member Castillo voting aye  
Council Member Parker voting aye

Council Member Goldberg voting aye  
Council Member Boney voting aye  
Council Member Todd voting aye  
Council Member Ellis voting aye  
Council Member Keller voting aye

Council Member Quan voting aye  
Council Member Sanchez voting aye  
Council Member Bell voting no  
Council Member Robinson voting aye  
MOTION 2000-1455 ADOPTED

A roll call vote was made on Council Member Tatro's motion to refer Item No. 33 back to the administration.

ROLL CALL VOTE:

Mayor Brown voting no  
Council Member Tatro voting aye  
Council Member Galloway voting no  
Council Member Goldberg voting no  
Council Member Boney voting no  
Council Member Todd voting aye  
Council Member Ellis voting aye  
Council Member Keller voting no

Council Member Vasquez voting no  
Council Member Castillo voting no  
Council Member Parker voting no  
Council Member Quan voting no  
Council Member Sanchez voting aye  
Council Member Bell voting no  
Council Member Robinson voting no  
MOTION 2000-1456 FAILED

A vote was called on Item No. 33. Council Members Ellis, Sanchez, Tatro and Todd voting no, balance voting aye. ORDINANCE 2000-1050 adopted.

1. RECEIVE nominations for Positions Six and Seven on the **CIVIC ART COMMITTEE** with terms to expire January 1, 2002

Council Member Robinson stated that he had previously distributed to Council a copy of a resume and memo nominating Ms. Lana Smith for Position 6.

Council Member Robinson moved to place Ms. Lana Smith into nomination for Position 6, on the Civic Arts Commission, seconded by Council Member Tatro. All voting aye. Nays none. MOTION 2000-1457 ADOPTED.

Council Member Castillo moved to place Ms. Josie Mendoza Postel into nomination for Position 6 on the Civic Arts Commission, seconded by Council Member Vasquez. All voting aye. Nays none. MOTION 2000-1458 ADOPTED.

Council Member Vasquez moved to place Mr. Alan Ainsworth into nomination for Position 6 on the Civic Arts Commission, seconded by Council Member Keller. All voting aye. Nays none. MOTION 2000-1459 ADOPTED.

Council Member Boney moved to close nominations for Position 6 on the Civic Arts Commission, seconded by Council Member Robinson. All voting aye. Nays none. MOTION 2000-1460 ADOPTED.

Council Member Sanchez stated that he had distributed a resume for Mr. Chris Hageney who was a citizen of the City of Houston.

Council Member Sanchez moved to place Mr. Chris Hageney in nomination for Position 7 on the Civic Arts Commission, seconded by Council Member Ellis. All voting aye. Nays none. MOTION 2000-1461 ADOPTED.

Council Member Sanchez moved to close nominations for Position 7 on the Civic Arts Commission, seconded by Council Member Boney. All voting aye. Nays none. MOTION 2000-1462 ADOPTED.

Council Member Robinson moved to suspend the rules to postpone a vote on the nominations for Position 6 and 7 on the Civic Arts Commission for 2 weeks, seconded by Council Member Boney. All voting aye. Nays none. MOTION 2000-1463 ADOPTED

### **MATTERS TO BE PRESENTED BY COUNCIL MEMBERS**

Council Member Goldberg thanked the Mayor and the various County and City officials that came out to the Willow Waterhole ceremony yesterday, that it marked a great time for the City of Houston when they could add a park of approximately 250 acres without incurring any of the costs of acquiring the land, that it would be a combination of Harris County Flood Control District plan and also after it was prepared and finished by the County it would come under the offices of the Houston Parks and Recreation, that the greenspace was long overdue and needed. Council Member Boney absent.

Council Member Goldberg stated that it had been referred to him from the Westbury Civic Club that there was a citizen who was blind and disabled but was able to walk her neighborhood, but the problem was that there were no curb cuts and no places for her to get on and off the sidewalk, that they did talk to someone in the Mayor's office regarding disabilities and they had really done nothing up to this point, that it had been stalled in red tape and bureaucracy and he would like to call on the Mayor's office to see if they could get something moving. Council Member Boney absent.

Mayor Brown stated that they would follow up on it. Council Member Boney absent.

Council Member Todd stated that he had gotten a memo and several letters from Kingwood on an annexation related matter, that when the annexation of Kingwood was completed they had agreed to pay for certain things that MUDS were in the process of paying for and he had been working with Mr. Paul Nelson and with Mr. Bill Beauchamp, Legal Department, in trying to rectify a situation involving water, sewer and drainage facilities in Deer Cove which used to be the Harris County Utility District No. 4, that there was an amount in arrearage of \$263,532 and was interest bearing, that it was his understanding that the City of Houston was responsible for paying it and he asked Mayor Brown to contact Mr. Beauchamp in the Legal Department to see if they could get a memo out to him. Council Member Boney absent.

Mayor Brown stated that he would ask Mr. Hall to follow up on that. Council Member Boney absent.

Council Member Galloway stated that she wanted to note that some citizens had complained about signs being placed on poles advertising various CD's or record releases, that on every pole they had at least four signs advertising something, and she wondered if when officers were out patrolling late at night, which was when this happened, that maybe if they could be more conscientious and look out for the persons doing it because it was really extra work for her department who was having to remove those signs. Council Members Boney and Todd absent.

Mayor Brown stated that they would do that and also have the Sign Administration Division follow up on it as well. Council Members Boney and Todd absent.

Council Member Robinson stated that he wanted to go back to the Benton item and wanted to thank the Legal Department and Chief Bradford for undertaking the effort of clarification, but would also like to see some process that could be put into place that if they had a situation where a City prosecutor dismisses charges against an individual because there were not legal basis for the charge, that there was some kind of notice provided to the Chief and Legal Department so they would be aware of it. Council Members Boney and Todd absent.

Council Member Robinson stated that he understood that Mr. Richard Lewis would be leaving the City to go into the private sector, that he wanted to thank him for his work with the Transportation, Technology and Infrastructure Committee on several ordinances that they had worked on, that he understood that Mr. Lewis had been the lead person on the Meet and Confer Discussions and was wondering who was going to be his replacement and if they could get some kind of status update on where they were with the Meet and Confer Discussion as they start to progress. Council Members Boney and Todd absent.

Mayor Brown stated they would get that for him. Council Members Boney and Todd absent.

Council Member Quan stated that on the Benton matter he just wanted to make sure that the citizens knew they were looking very carefully at all policy's, that there was always a question of racial profiling, where the people were being selectively charged because of their race, that they as a Council and City did not condone any actions of that type whatsoever, that he was glad they had some clarification and was a little dismayed that the memo from the police chief only came out October 23, 2000, but hopefully actions were in place to make sure that such actions were corrected in the future.

Council Member Quan stated that they had on the agenda today an item dealing with some of the tax abatements that they had given recently, that he just wanted to make sure that the City continued to follow up on those abatements, that it seemed in other cities that often times abatements that were given were not in fact followed up on.

Mayor Brown stated that the Houston Police Department was probably one of the first policing agencies in the Country to develop a policy on racial profiling, before it was even an item that was brought to the City's attention, that they wanted to be very proactive and had a policy on racial profiling. Council Members Galloway, Boney and Todd absent.

Council Member Vasquez stated that he wanted to bring to Council Members attention that in the next couple of months the library service was going to be working with its Strategic Master Plan to reach out to the community and to the civic clubs, and hoped that the Council Members did the due diligence with their civic clubs and community leaders on the library master plan, that no plan was perfect and he had some criticisms of it himself and would also encourage Ms. Barbara Gubbin, as Director, to be flexible and open to suggestions from the community and input from the various constituent groups. Council Members Galloway and Todd absent.

Council Member Keller requested that his fellow Council Members stay to hear each other's pop-off. Council Members Galloway and Todd absent.

Council Member Keller stated that he wanted to extend his sincere thanks and compliments to Ms. Mares, Public Works Customer Service at 713-837-0600, that they helped him with two sewage matters, that also a huge tree about 3 feet in diameter had fallen and Mr. Roach with Customer Service helped with that and got the tree removed before dark. Council Members Galloway and Todd absent.

Council Member Boney stated that it was a little more than a year ago when Mayor Brown and the Director of the Health Department, Dr. Kendricks, declared a state of emergency in relationship to the raging epidemic of HIV and AIDS in Houston's African American Community and they were approaching, Friday, December 1, 2000, World Aids Day, that on Saturday, December 9, 2000, his office and the Health Department were sponsoring an HIV/AIDS training institute with the objective of HIV prevention, intervention and protection, that it would be at the George R. Brown Convention Center from 9:30 a.m. to 1:30 p.m., and he urged all of the citizens, Council Members and staff and anyone who was interested to please come, that the structure was not to have a conference but to actually train with the best practices and tools that they had available, and also to equip the participants with information, resources, etc., so that they could go out and intervene in this epidemic themselves. Council Members Galloway and Todd absent.

Council Member Sanchez stated that there were a number of commercial establishments throughout the City that for whatever reason believed that not only did they have domain over the property which they own or lease but they extend that domain out to the right of way, that for example in downtown there were a number of restaurants and nightclubs and other facilities that put out cones and block the right of way, that it was illegal to close down a right of way or set up cones to block people's access to meters without a permit to close the street, that it was also a problem at the Galleria. Council Members Galloway and Todd absent.

Council Member Sanchez stated that the other day the lights at Memorial Loop and Memorial Drive went out and two officers took it upon themselves to station their units and direct traffic, which was rare, so he wanted to commend the officers who did that. Council Members Galloway and Todd absent.

Mayor Brown requested that Chief Storemski follow up on Council Member Sanchez's concern. Council Members Galloway and Todd absent.

Council Member Parker stated that she shared Council Member Sanchez's concerns about taking over the City streets downtown and some out of control valet parking attendants, that she knew the ordinance had been pending for some time and hoped that they could move forward on it. Council Members Galloway and Todd absent.

Council Member Castillo stated that yesterday they learned that the Honorable Henry B. Gonzalez, who represented the 20th Congressional District of Texas, passed away, that he was a pioneer for Hispanics, leading the way to becoming the first Hispanic of Mexican American decent to be elected to the Texas State Senate in more than 100 years, and later was elected to represent San Antonio's 20th Congressional District, and stated that rather than tell the whole story they passed around a copy of a statement that was made by the



Chairman of the Committee on Banking and Financial Services of the House of Representatives, that everyone recognized Henry B. Gonzalez for being a staunch supporter of honesty in government and faithful service to his constituents, that it could all be summed up on a sign that hung on his door all the time he was in Congress, that it read "This Office Belongs to the People of the 20th Congressional District of Texas", that he lived that motto. Council Members Galloway and Todd absent.

Council Member Bell stated that he called the Water Utilities Customer Service number, 713-371-1400, and it was vastly improved, that now the recording was moving folks smoothly through it and they gave an estimated wait time and the person came on within that length of time, so he wanted to thank whoever took care of improving the system and for proving that pop-off really did work. Council Members Galloway and Todd absent.

Council Member Ellis stated that over the weekend he had traveled to Rockford, Illinois and he noticed as he was driving through the City that they had a lot of signs and posting that said deaf children, and he thought it was something that Houston needed to adopt as well, and that was to provide signs for families who had deaf children, and not only for the children, but for the drivers as well, that it was a safety issue, and he knew that the City did not do that at present and hoped that they would look into it. Council Members Galloway, Todd and Castillo absent.

Council Member Ellis stated that they had a lot of complaints from Keegans Glenn Subdivision, that some six months ago they approved a new waste company, Republic Waste, and while the transition was not a smooth one they were finally getting to a point where the constituents in West and Southwest Houston were accepting it, that they had an incident last week that made a lot of individuals extremely upset and that was that they had a lot of the truck drivers just leave their trucks and walk out of the subdivision, apparently there was a walkout with the company, that while he understood that it was somewhat out of their control he would like for Mr. Buchanan to review the terms of the contract and see what they could do when they had situations such as this and then he would also like to meet with Mr. Buchanan on this subject. Council Members Galloway, Todd and Castillo absent.

Mayor Brown stated that they would have Mr. Buchanan meet with him on it, that they did have the contract with Republic and there was a work stoppage, due to an issue that occurred back in 1998, but as of today they should be up to date on their pickups, that it appeared that they would not be in violation of their contract, but they would have Mr. Buchanan meet with him on that. Council Members Galloway, Todd and Castillo absent.

Council Member Ellis stated that he would also like to offer his condolences on the death of Henry B. Gonzalez. Council Members Galloway, Todd and Castillo absent.

There being no further business before Council, the City Council adjourned at 10:52 a.m. upon MOTION by Council Member Robinson, seconded by Council Member Quan. All voting aye. Nays none. Council Members Galloway, Todd and Castillo absent. MOTION ADOPTED. COUNCIL ADJOURNED.

DETAILED INFORMATION ON FILE IN THE OFFICE OF THE CITY SECRETARY.

MINUTES READ AND APPROVED

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Anna Russell, City Secretary