

AGENDA - COUNCIL MEETING - TUESDAY - DECEMBER 4, 2001 - 1:30 P. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS

MOTIONS 2001-1283 to 2001-1312
ORDINANCES 2001-1075 to 2001-1098
RESOLUTION - None

No. 2001-1282-1

PRAYER AND PLEDGE OF ALLEGIANCE - Council Member Todd

1:30 P. M. - ROLL CALL

ADOPT MINUTES OF PREVIOUS MEETING

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

5:00 P. M. - RECESS

RECONVENE

WEDNESDAY - DECEMBER 5, 2001 - 9:00 A. M.

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

HEARINGS

1. **Motion 2001-1283 – Close hearing**
PUBLIC HEARING to consider the creation of a Reinvestment Zone for **R&L CARRIERS, INC**
DISTRICT I - CASTILLO - 9:00 A.M.

MAYOR'S REPORT

Motion 2001-1284 – Accept Report

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

CONSENT AGENDA NUMBERS 2 through 43

MISCELLANEOUS - NUMBERS 2 through 6

2. Motion 2001-1296

CONFIRMATION of the appointment or reappointment of the following to the **HOUSTON CLEAN CITY COMMISSION** for one year terms to expire February 1, 2002:

Position B - **MR. R. C. JONES**, reappointment

Position C - **MRS. RUTH HURST**, appointment

Position E - **MR. GLEN GRANTOM**, reappointment

Position G - **MS. AGNES PERKINS**, appointment

3. Motion 2001-1312

RECOMMENDATION from Director Convention & Entertainment Facilities for approval of supplemental budget submitted by the **ARTS COUNCIL OF HOUSTON/HARRIS COUNTY**

4. Motion 2001-1303

RECOMMENDATION from Chief Administrative Officer, Mayor's Office for approval of supplemental budget submitted by the **GREATER HOUSTON CONVENTION AND VISITORS BUREAU**

5. Motion 2001-1297

RECOMMENDATION from Director Human Resources to extend for 90 days pay differential for employees called to active duty during a time of war or state of emergency

6. Motion 2001-1304

RECOMMENDATION from Director Department of Public Works & Engineering to approve refunds over \$25,000.00 for Water & Sewer Accounts for various customers - \$67,407.12 Enterprise Water & Sewer Fund

ACCEPT WORK - NUMBER 7

7. Motion 2001-1298

RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$3,257,319.50 and acceptance of work on contract with **INDUSTRIAL TX, INC** for Almeda-Sims WWTP East Lift Station Replacement, GFS R-1222-32-3 (4447AS-3) 1.63% over the original contract amount - Enterprise Fund - **DISTRICT D - BONEY**

PROPERTY - NUMBERS 8 through 14

8. Motion 2001-1299

RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Bob Atkinson of Edminster, Hinshaw, Russ and Associates, on behalf of the property owner, Houston Belfort Pines Apartments, L. P., a Texas limited partnership [Houston Belfort Pines Apartments I, L.L.C., (Michael Robinson, manager, member), general partner], for abandonment and sale of Shelby Circle (Yates Avenue), from Mariah Street ?118 feet east to its dead-end, two 10-foot-wide prescriptive sanitary sewer easements, a 10-foot-wide prescriptive water line easement, and two 5-foot-wide easements in exchange for the conveyance to the City of a 25-foot wide sanitary sewer easement, a 20-foot-wide sanitary sewer easement, and 10-foot-wide utility easement, all located in Grigsby Terrace, Benton H. Freeling Survey, Abstract 270, Parcels SY1-067A through F, DY1-032A and B, and VY2-005 - **DISTRICT D - BONEY**

PROPERTY – continued

9. Motion 2001-1300

RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel A91-138, located 145 feet south of Granville Street, owned by C. A. Queen or unknown heir(s), for the **ELLA BOULEVARD (WHEATLEY) PAVING PROJECT from Pinemont to West Little York**, CIP N-0546 - **DISTRICT B - GALLOWAY**

10. Motion 2001-1301

RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel A99-98, located 253 feet north of Melon Street, owned by Willie L. Hubbard and wife, Dorothy M. Hubbard, for the **ELLA BOULEVARD (WHEATLEY) PAVING PROJECT from Pinemont to West Little York**, CIP N-0546 - **DISTRICT B - GALLOWAY**

11. Council Member Bell tagged

RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel AY1-047, located at 612 Chenevert Street, owned by Billy Marlin, Trustee, for the **EXTENSION OF AVENIDA DE LAS AMERICAS PROJECT from Rusk to Texas**, CIP B-0069-00-1 - **DISTRICT I - CASTILLO**

12. Motion 2001-1305

RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel AY1-048, located at 618 Chenevert Street, owned by Frank Kalas and Albert Kalas, for the **EXTENSION OF AVENIDA DE LAS AMERICAS PROJECT from Rusk to Texas**, CIP B-0069-00-1 - **DISTRICT I - CASTILLO**

13. Motion 2001-1306

RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel AY1-050, located at 1705 Capital Avenue, owned by Urban Farmers Ltd., a Texas limited partnership, Urban Farmers GP, LLC, General Partner (W. A. Shindler, R. L. Buckalew, and T. D. Davis, Managers), for the **EXTENSION OF AVENIDA DE LAS AMERICAS PROJECT from Rusk to Texas**, CIP B-0069-00-1 - **DISTRICT I - CASTILLO**

14. Motion 2001-1307

RECOMMENDATION from Director Department of Public Works & Engineering for purchase of Parcel LYO-25, located at 8250 Westheimer Road, owned by Varzea Alegre II (Houston) L.L.P., a Texas Limited Partnership, formerly Varegre II L.L.C., a Texas limited liability company, [Fogo de Chao Churrascaria, a Texas limited liability company, (Jair Coser, Manager) sole general partner], for the **DUNVALE-LIPAN RELIEF STORM SEWER PROJECT**, CIP M0189-01-1, \$48,224.00 - Storm Sewer Consolidated Construction Fund - **DISTRICT G - KELLER**

PURCHASING AND TABULATION OF BIDS - NUMBERS 15 through 19A

15. Motion 2001-1308

AMEND MOTION #2001-511, 5/13/01, TO INCREASE award amount by \$78,885.00 from \$315,540.00 to \$394,425.00 for Sewer Cleaning Services for Department of Public Works & Engineering, awarded to **KENNY INDUSTRIAL SERVICES, LLC** - Enterprise Fund

16. Motion 2001-1309

AMEND MOTION #99-1828, 10/20/99, TO INCREASE spending authority by \$149,625.00 from \$262,500.00 to \$412,125.00 for Automotive, E-One Fire Truck Replacement Parts for Fire Department, awarded to **EMERGENCY VEHICLES OF TEXAS, INC** - General Fund

PURCHASING AND TABULATION OF BIDS - continued

17. Pulled - Not Considered

AMEND MOTION #99-821, 5/12/99, TO EXTEND expiration date for 12 months from May 12, 2002 to May 11, 2003, for Nylon Fire Hydrant Caps Contract for Department of Public Works & Engineering, awarded to **HUGHES SUPPLY, INC dba INDUSTRIAL INTERNATIONAL, INC**

18. Motion 2001-1302

AMEND MOTION #2000-464, 3/29/00, TO INCREASE spending authority by \$45,038.50 from \$180,154.00 to \$225,192.50 awarded to **HYDRAFLO, INC** and by \$35,123.00 from \$140,492.00 to \$175,615.00 awarded to **HUGHES SUPPLY, INC dba INDUSTRIAL INTERNATIONAL, INC** for Fire Hydrant Repair Parts for Department of Public Works & Engineering - Enterprise Fund

19. Ordinance 2001-1082

ORDINANCE appropriating \$201,057.00 out of Water & Sewer System Consolidated Construction Fund for Landscaping Services and Landscape Management Consulting Services for the Public Works & Engineering Department, CIP S-1000-N8

a. Motion 2001-1310

BIO LANDSCAPE AND MAINTENANCE, INC - \$154,340.00 and contingencies for an amount not to exceed \$162,057.00 and **LANDSCULPTURE & DESIGN** - \$39,000.00 for Landscaping Services for Department of Public Works & Engineering

RESOLUTIONS AND ORDINANCES - NUMBERS 20 through 43

20. Council Member Goldberg tagged

RESOLUTION designating certain properties in the City of Houston as Historic Landmarks (Houston Heights City Hall and Fire Station, Simon and Mamie Minchen House, Link-Lee House and Sam Houston Hotel) - **DISTRICTS D - BONEY; H - VASQUEZ and I - CASTILLO**

Motion 2001-1293 - I move to amend Section 5 of Agenda Item #21, which is an ordinance relating to the provision of motor vehicle towing and storage services within the City, by adding a new Subsection (e) to proposed Section 8-126 of the Code of Ordinances, Houston, Texas, that reads as follows:

“(e) The agreements shall conform to the following requirements and terms, which shall be incorporated therein by reference:

- (1) Each auto wrecker shall be allowed to perform police-authorized towing in only one ‘zone’, which for purposes of the agreements shall mean one of the five service areas that are described and depicted in Exhibits A and B to Ordinance 84-560. Consistent with the foregoing requirement, the agreement shall include the following clause:

‘Operator shall choose one specific zone for each auto wrecker that is to be utilized by the Operator to perform police-authorized tows. Operator shall not allow auto wrecker to tow any vehicle authorized by the police department outside of the approved zone. Violation of this provision is grounds for revocation of this Agreement.’

MOTION 2001-1293 - continued

- (2) The agreement shall include the following clause regarding insurance requirements:

'The Operator shall obtain and maintain in effect during the term of this Agreement, insurance coverage as set out below, and shall furnish certificates of insurance, prior to the beginning of the term of this Agreement. All such policies except Worker's Compensation or Occupational Safety Insurance shall be primary to any other insurance and shall name the City as an additional insured. All liability policies shall be issued by a company with a Certificate of Authority from the State Department of Insurance to conduct insurance business in Texas or a rating of at least B+ and a financial size of Class VI or better according to the current year's Best's rating. Operator shall maintain the following insurance coverage in the following amounts:

- A. Automobile Liability Insurance
?? \$1,000,000 combined single
limit per occurrence
- B. Cargo on Hook Coverage
* \$50,000 per vehicle
- C. Workers Compensation or
Occupational Safety Insurance
- D. All drivers of auto wreckers shall
be named insured on Operator's
liability insurance policy.'

- (3) For purposes of awarding, renewing, or terminating agreements, the police department shall not consider information regarding the moving traffic violation conviction or accident records of an agreement holder's drivers."

21. Ordinance 2001-1079 – Adopt as amended

ORDINANCE amending the **CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to the provision of Motor Vehicle Towing and Storage Services within the City; containing findings and other provisions relating to the foregoing subject; providing for severability

22. Council Member Boney tagged

ORDINANCE amending the **CODE OF ORDINANCES, CITY OF HOUSTON, TEXAS, SECTION 14-168** revising and expanding criteria for compensatory time for certain exempt employees under ordinary and extraordinary circumstances; containing other provisions relating to the foregoing subject; providing for severability

RESOLUTIONS AND ORDINANCES - continued

Motion 2001-1290 – Suspend rules to consider Item 23 out of order

23. Ordinance 2001-1078

ORDINANCE relating to requirements for the issuance of ordinances for operation of existing pipelines and construction and operation of new pipelines in public streets; amending the Code of Ordinances, Houston, Texas; containing findings and other provisions relating to the foregoing subject; providing an effective date

24. Council Member Tatro tagged

ORDINANCE approving and authorizing a Strategic Partnership Agreement between the City of Houston, the **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT 344**, and **GENSTAR SUMMERWOOD L.P.**

a. Council Member Tatro tagged

ORDINANCE annexing to the City of Houston, Texas for limited purposes all of the area in Harris County Municipal Utility District No. 344; containing findings and other provisions relating to the foregoing subject; adopting a Regulatory Plan for such area; imposing the sales tax of the City of Houston, Texas in such area; providing for severability

25. Council Member Tatro tagged

ORDINANCE approving and authorizing a Strategic Partnership Agreement between the City of Houston, the **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT 361**, and **GENSTAR SUMMERWOOD L.P.**

a. Council Member Tatro tagged

ORDINANCE disannexing all of the area in Harris County Municipal Utility District No. 361; annexing all of the area in Harris County Municipal Utility District No. 361 for limited purposes; containing findings and other provisions relating to the foregoing subject; adopting a Regulatory Plan for such area; imposing the sales tax of the City of Houston, Texas in such area; providing for severability

26. Ordinance 2001-1083

ORDINANCE approving and authorizing lease agreement between **ARTS COUNCIL OF THE HOUSTON/HARRIS COUNTY REGION**, as tenant, and the City of Houston, Texas, as landlord, for space at 3201 Allen Parkway, Houston, Texas - **DISTRICT D - BONEY**

27. Ordinance 2001-1084

ORDINANCE amending Ordinance Numbers 97-1131 **UNIVERSITY OF TEXAS**, 97-1132 **INTERFAITH CAREPARTNERS** formerly known as **Foundation for Interfaith Research and Ministry**, **ALZHEIMER ASSOCIATION**, 97-1133 **CITY OF LA PORTE**, **CITY OF PASADENA**, 97-1175 **YWCA OF HOUSTON-AREA 3**, **JEWISH COMMUNITY CENTER-AREA 6**, **INTERFAITH MINISTRIES FOR GREATER HOUSTON-AREA 9**, 97-1629 **CITY OF SOUTH HOUSTON**, 99-171 **SHELTERING ARMS**, **PERRYLEE HOME HEALTH**, 2000-1087 **INDOCHINESE CULTURE CENTER** and 2001-403 **HEIGHTS AUDIOLOGY & HEARING AIDS** to increase the maximum contract amount for the above contractors who provide services to the elderly - \$1,761,697.00 - Grant Fund

28. Ordinance 2001-1085

ORDINANCE approving and authorizing contract between the City and **SCIENTIFIC TECHNOLOGIES CORPORATION** for an Immunization Marketing Plan for the City's Immunization Program; providing a maximum contract amount - \$200,000.00 - Grant Fund

RESOLUTIONS AND ORDINANCES - continued

29. Ordinance 2001-1086

ORDINANCE appropriating \$300,000.00 out of Homeless and Housing Consolidated Bond Fund; approving and authorizing the City of Houston to enter into contract with **HOUSING OPPORTUNITIES OF HOUSTON, INC** to provide up to \$2,898,000.00 of Federal "Home" Funds and \$300,000.00 of Homeless and Housing Consolidated Bond Funds to administer Homebuyers Assistance Program providing subsidy funding to qualified homebuyers to be used for down payment assistance and closing costs

30. Ordinance 2001-1087

ORDINANCE appropriating \$350,000.00 out of Homeless and Housing Consolidated Bond Fund; approving and authorizing the City of Houston to enter into contract with **HOUSTON HOUSING FINANCE CORPORATION** to provide up to \$5,106,000.00 of Federal "Home" Funds and \$350,000.00 of Homeless and Housing Consolidated Bond Funds to administer a New Home Homebuyers Assistance Program providing subsidy funding to qualified homebuyers to be used for down payment assistance and closing costs

31. Ordinance 2001-1088

ORDINANCE approving and authorizing contract between the City and **UNIVERSITY OF HOUSTON** to serve as Research Partner for the Gang Free Schools and Communities Program **DISTRICTS H - VASQUEZ and I - CASTILLO** - \$49,842.00 - Grant Fund

32. Ordinance 2001-1089

ORDINANCE appropriating \$38,950.00 out of George R. Brown Consolidated Construction Fund and approving and authorizing an agreement for Professional Conservation and Restoration Services between the City of Houston and **BEN WOITENA d/b/a METAL ARTS** for the Restoration of the Artworks "Dancer" located at Jones Hall and the "Sweeney Clock" located at Capital and Bagby Streets - **DISTRICT I - CASTILLO**

33. Ordinance 2001-1090

ORDINANCE approving and authorizing contract amendment between the City of Houston and **SYNAGRO OF TEXAS - CDR, INC** for Hauling and Disposal of Municipal Biosolids for the Department of Public Works and Engineering; increasing the maximum contract amount \$1,950,000.00 - Enterprise Fund

34. Ordinance 2001-1091

ORDINANCE awarding contract to **HOUSTON SERVICES INDUSTRIES, INC** for Blower Replacement Parts & Repair Services for Public Works & Engineering Department; providing a maximum contract amount - \$3,862,655.11 - Enterprise Fund

35. Ordinance 2001-1092

ORDINANCE approving and authorizing contract between the City and **TURNER COLLIE & BRADEN, INC** for the Government Accounting Standards Board (GASB) Statement No. 34 Drainage Assessment Program, CIP M-0126-51-2 (SM5029) - \$550,000.00 - Street & Drainage Maintenance Fund

36. Ordinance 2001-1093

ORDINANCE appropriating \$50,000.00 out of General Improvement Consolidated Construction Fund and approving and authorizing professional surveying services contract between the City of Houston and **COBB, FENDLEY & ASSOCIATES, INC** for Surveying of Buffalo Bayou from Sabine Street to Bagby Street, CIP D-0100-02-2 (SB9074) - **DISTRICTS H - VASQUEZ and I - CASTILLO**

RESOLUTIONS AND ORDINANCES - continued

37. Ordinance 2001-1094

ORDINANCE appropriating \$1,494,273.58 out of Water & Sewer System Consolidated Construction Fund, awarding construction contract to **PHOCO, INC dba TELEPHONE COMPANY OF HOUSTON** and approving and authorizing professional services contract for engineering testing services with **GEOSCIENCE ENGINEERING & TESTING, INC** for Citywide Fire Hydrant Replacement and Height Correction, GFS S-0035-86-3 (WA10707); providing funding for construction management and contingencies relating to construction of facilities financed by Water and Sewer System Consolidated Construction Fund

38. Ordinance 2001-1080

ORDINANCE appropriating \$1,710,000.00 out of Water & Sewer System Consolidated Construction Fund, awarding construction contract to **RELIANCE CONSTRUCTION SERVICES, L.P.**, approving and authorizing professional services contract for engineering testing service with **GEOTEST ENGINEERING, INC** for On-Call Water Main and Sanitary Sewer Extensions, GFS S-0801-P3-3; providing funding for contingencies relating to construction of facilities financed by Water and Sewer System Consolidated Construction Fund

39. Ordinance 2001-1095

ORDINANCE appropriating \$1,200,000.00 out of Airport System Consolidated 2000 AMT Construction Fund and approving and authorizing amendment No. 1 to professional engineering services contract between the City of Houston and **POST, BUCKLEY, SCHUH & JERNIGAN, INC** for Runway 8L-26R at George Bush Intercontinental Airport/Houston, Project No. 522, CIP A-0304 - **DISTRICT B - GALLOWAY**

40. Ordinance 2001-1081

ORDINANCE appropriating \$8,601,982.00 out of Airport System Consolidated 2001 AMT Construction Fund CIP A0354 and \$15,491,374.00 out of Airport Subordinate Lien Revenue Bonds, Series 2000B (NON-AMT) Construction Fund CIP A-0203 and \$129,500.00 out of Airports Improvement Fund CIP A-0422, awarding construction contract to **J. D. ABRAMS, L. P.** and approving and authorizing professional services contract for engineering testing services with **AVILES ENGINEERING CORPORATION** for the Automated People Mover (APM) Guideway Extension, Roadway & Site Utilities III at George Bush Intercontinental Airport/Houston (IAH), Project 536A; providing funding for the Civic Art Program financed by Airport Improvement Fund **DISTRICT B - GALLOWAY**

41. Ordinance 2001-1096

ORDINANCE appropriating \$334,000.00 out of Public Health Consolidated Construction Fund, awarding construction contract to **ALBERTI DESIGN, INC** and approving and authorizing professional services contract for engineering testing services with **PROFESSIONAL SERVICES INDUSTRIES, INC** for construction of the Renovation of Shower Areas at Metropolitan Multi-Service Center, CIP H0062; providing funding for contingencies relating to construction of facilities financed by the Public Health Consolidated Construction Fund - **DISTRICT D - BONEY**

Motion 2001-1292 – Suspend rules to consider Items 42 and 21 out of order

42. Ordinance 2001-1054 – Passed third and final reading in full

ORDINANCE NO. 2001-1054, passed second reading November 28, 2001
ORDINANCE amending City Of Houston, Texas Ordinance No. 2000-678 relating to the grant of a Cable Television Franchise to **WESTERN INTEGRATED NETWORKS OF TEXAS OPERATING, L.P.**; containing provisions relating to the subject; making certain findings related thereto; and providing for severability - **THIRD AND FINAL READING**

RESOLUTIONS AND ORDINANCES - continued

Motion 2001-1294 – Suspend rules to consider Item 43 out of order

Motion 2001-1295 – Postpone Item 43 to the end of the Agenda

43. Ordinance 2001-1098

ORDINANCE canvassing the returns of the City of Houston Runoff Election held on December 1, 2001, counting the votes cast; making various findings and provisions related to the subject; determining the official results of the Runoff Election

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

NON CONSENT AGENDA – NUMBER 44

MISCELLANEOUS

44. Motion 2001-1311

**SET HEARING DATE to amend CHAPTER 42 OF THE CODE OF ORDINANCES
SUGGESTED HEARING DATE - 9:00 A.M. - WEDNESDAY - 1 WEEK FROM DATE OF
PASSAGE**

MATTERS HELD - NUMBERS 45 through 50

Motion 2001-1285 – Suspend rules to consider Items 45 and 45a out of order

45. Motion 2001-1287 – Postpone two (2) weeks

WRITTEN MOTION presented by Council Member Robinson to amend Item 45A below, to provide the following:
Require that at least \$25 million dollars of the \$69 million dollar renovation commitment be spent within the first ten (10) years of the lease
If all \$69 million dollars for renovations are not spent within the original thirty (30) year term of the lease, the lessee will pay the City \$20 million dollars to extend the lease an additional thirty (30) years - **TAGGED BY COUNCIL MEMBERS ROBINSON and PARKER**

Council Member Robinson offered the following amendments to Item 45:

1. Amend Item 45a to eliminate the requirement that the city pay the first \$250,000 in legal fees to defend the lease agreement should it be approved by Council.
2. Amend Item 45a to mandate that the \$9.5 Million lease payment be deposited in the General Fund, and that the lease payment at the end of the initial thirty (30) year term be evenly divided between the General Fund and the Convention and Entertainment Enterprise Fund.
TAGGED BY COUNCIL MEMBERS PARKER AND TATRO

MATTERS HELD – continued

Item 45a – continued

Council Member Parker offered the following amendments:

The following are submitted as proposed amendments to Agenda Item 45a on the December 5, 2001 City Council Agenda:

1. Amend Section 4.6(a) of the Lease as set forth on Exhibit A attached hereto to provide that in the event Lakewood's Existing Facility located at 7317 E. Houston Road is not available for one or more City Dates (whether by sale, closure or otherwise), then Tenant shall substitute City Dates at the Leased Premises in lieu of City Dates at the Existing Facility.
2. Amend Section 4.6(b) of the Lease as set forth on Exhibit B attached hereto to provide (1) that Lakewood will accommodate the use of the Compaq Center for not only the 2012 Olympic bid but for future Olympic bids, and (2) that the parties anticipate that the cost of restoring the facility after the Olympics will be funded through the Houston 2012 Foundation.
3. Amend Section 7.1 of the Lease as set forth on Exhibit C attached hereto to provide that Lakewood will pay the City's legal fees and costs for the deed restriction litigation.
4. Amend Section 18.1(g) of the Lease as set forth on Exhibit D attached hereto to provide that Lakewood will provide reasonable supporting documentation of "the investment(s) contemplated under Section 3.2" of the Lease (Section 3.2 requires Lakewood to make certain improvements as a condition to exercise the second 30 year lease term.)

Exhibit A

in the amount of \$9,500,000 ("Letter of Credit"), issued by a bank reasonably acceptable to Landlord, providing that Landlord may draw the full amount of such Letter of Credit upon a Tenant Default in the payment of Base Rent. Tenant agrees to keep the Letter of Credit in full force and effect until such time as the entire \$9,500,000 of Base Rent is paid to Landlord; provided, however, that the Letter of Credit shall be reduced at the time each installment of Base Rent is paid by Tenant in the amount of such installment of Base Rent.

4.4 Additional Rent. Tenant covenants and agrees to pay, as additional rental, all (i) Impositions as and when required to be paid under the terms of this Lease; and (ii) costs, expenses, liabilities, obligations and other payments of whatever nature which Tenant has agreed to pay Landlord or assume under the provisions of this Lease as and when required to be paid or assumed (collectively, the "Additional Rent"). Additional Rent does not include Base Rent.

4.5 Place and Method of Payment. All Rent (other than Additional Rent that Tenant has agreed to pay directly to the respective obligee thereof) shall be paid to Landlord at Landlord's Delivery Address referenced in Appendix A attached hereto, without notice or demand, in the manner set forth in Article XXI of this Lease. The Person or account to receive such payments and the address for payment may be changed from time to time by notice from Landlord to Tenant.

MATTERS HELD – continued

Item 45a – continued

4.6 Additional Consideration. As further consideration for this Lease, Tenant covenants and agrees that:

(a) City Dates. Landlord shall have the right (which right is personal to the City and not assignable to any subsequent Landlord or other Person except that the City may designate any governmental authority, quasi-governmental authority or non-profit organization as its designee for the use of the Leased Premises on any City Date) to use portions of the Leased Premises for up to ten (10) days during each Lease Year and portions of Lakewood's existing facility located at 7317 E. Houston Road ("Existing Facility") for up to ten (10) days during each Lease Year (individually, a "City Date," and collectively the "City Dates") for non-revenue generating civic or public ceremonies, forums or other similar, non-revenue generating uses and revenue generating charitable or educational purposes; provided, however, that in the event the Existing Facility is not available for one or more City Dates (whether by sale, closure or otherwise), then Tenant shall substitute City Dates at the Leased Premises in lieu of City Dates at the Existing Facility. The City may schedule such events by contacting Tenant, and Tenant agrees not to unreasonably withhold its consent to such date or use requested by the City. Such date of use, and any set up time required therefor, may not conflict with another scheduled or proposed event at the Leased Premises (including but not limited to religious worship services). Tenant agrees to meet with City representatives periodically in order to address scheduling of such events in a manner that will not conflict with Tenant's use of the Leased Premises, or as applicable, the Existing Facility, but will allow the City to use the Leased Premises, or as applicable, the Existing Facility₂ as provided in this Section 4.6(a). In any event, the City will only be allowed to use the Leased Premises and Existing Facility upon reaching such agreement with Tenant as to scheduling. The user shall enter into a license agreement with Tenant for each such use, in a form mutually acceptable to Tenant and such user. The City will not be required to pay rent in connection with such use of the Leased Premises or Existing Facility, however, the City

Exhibit B

shall be required to reimburse Tenant for any costs actually and reasonably incurred by Tenant in connection with the City's (or its permitted designee's) use of the Leased Premises or the Existing Facility, including but not limited to, the cost of utilities utilized, security, concessions, clean up, and any other costs incurred by Tenant which are directly related to the use of the Leased Premises or, the Existing Facility by the City (or its permitted designee). The parties shall reasonably agree upon which party will provide any necessary or desirable services in connection with any such use. Such license agreement shall include the agreement of the City (or its permitted designee) not to unreasonably interfere with any use of the Leased Premises or, as applicable, the Existing Facility, made by Tenant during such license period which does not unreasonably interfere with the City's (or its permitted designee's) use under the license agreement. Such license agreement shall also provide that the City (or its permitted designee) shall surrender the Leased Premises or as applicable, the Existing Facility, to Tenant in the same condition as when the City (or its permitted designee) took possession of the Leased Premises. The serving and consumption of alcohol shall be prohibited at Lakewood's Existing Facility in connection with any such City Date use. Alcohol may be served on the Leased Premises in connection with any City Date use provided that (i) alcohol service is in connection with a fundraising activity of a non-profit organization, (ii) such

MATTERS HELD – continued

Item 45a – continued

organization obtains any permit or governmental approval required to serve alcohol, (iii) Tenant is allowed to post signs notifying persons on the Leased Premises that the event is not sponsored by Tenant and any other similar disclaimer, and (iv) the license agreement for such use contains requirements for such user to obtain “dram shop” or liquor liability insurance (and such user obtains such insurance coverage) and to indemnify Tenant from claims related thereto.

(b) Olympics. In order to assist the City in attracting the 2012 Olympic Games or any other Olympic Games during the Term of this Lease (to the extent reasonably required in connection with the bid therefore) (“Olympics”) to the City and Harris County, Tenant agrees that, upon the request of the City, Tenant will , subject to Force Majeure and the casualty damage provisions of Article XIII hereof, use reasonable efforts—to accommodate the use of the Leased Premises for the Olympics (if awarded to Houston, Harris County, Texas) and to will negotiate in good faith with the City and other necessary Persons to agree upon the terms and conditions of a use, lease, sublease, license, concession, service, occupancy or other agreement for the use or occupancy of the Leased Premises (“Use Agreement”) under which Tenant will permit use of the Leased Premises for events held as part of the Olympics (including test events). The City agrees that any use, renovation, improvement, expansion or set up of the Leased Premises for the Olympics, or return thereof to its previously existing condition, will not (i) conflict with the terms of this Lease, or (ii) cause Tenant to conduct religious worship services at another location for more than a ninety (90) consecutive day period in total during such use, renovation, improvement, expansion, set up and return of the Improvements to its previously existing condition. The parties agree to work together in good faith on any scheduling, operational and cost matters related to the use of the Leased Premises for the Olympics (including test events). Such use, renovation, improvement, expansion, set up of the Leased Premises and return thereof to its previously existing condition shall be conditioned upon the City and Tenant reaching an agreement in writing regarding scheduling, operational, indemnity, insurance, allocation of risk and cost matters. The monetary terms of any such Use Agreement shall provide for reasonable compensation to Tenant for the use of the Leased Premises on terms to be negotiated at the appropriate time. The City (or its designees) shall receive the benefit of all revenue generated at the Leased Premises as a direct result of the Olympics. Should the Leased Premises require physical modifications and improvements in order to accommodate the Olympics, the City shall be responsible for funding the costs associated with such modifications and improvements and the costs associated with thereafter (i.e. following the occurrence of the Olympics) returning the Leased Premises to its previously existing condition on an expedited basis (and the City covenants and agrees with Tenant to promptly return the Leased Premises to Tenant in its previously existing condition), and the City shall perform such modifications, or cause such modifications to be performed, in accordance with plans that are provided to Tenant for Tenant’s prior written approval, which approval will not be unreasonably withheld, conditioned or delayed, and such work shall be otherwise performed by the City, or caused to be performed by the City, in accordance with Sections 10.2.2, 10.2.3 and 10.3 of this Lease, as if the City were the Tenant under those Sections for this purpose (it being anticipated that the cost of such restoration work will be funded through the Houston 2012 Foundation . Construction of such modifications and return of the Leased Premises to its previously existing condition shall be performed on an expedited basis so as to minimize disruption to the Leased Premises and Tenant’s use thereof for the Permitted Uses and to

MATTERS HELD – continued

Item 45a – continued

otherwise mitigate any adverse impact with respect to the rights of Tenant hereunder. Notwithstanding the foregoing, Tenant may elect, by written notice to Landlord, to perform such modifications to return the Leased Premises to its previously existing condition, which construction shall be in accordance with the provisions regarding construction of Alterations by Tenant in this Lease, and Landlord shall, within sixty (60) days after Tenant's completion of such modifications and payment therefore, upon presentation of supporting documentation reasonably acceptable to Landlord, reimburse Tenant for the cost thereof. The parties will use reasonable efforts to address matters as raised by the Olympic Committee (i.e., signage and concessions). Neither the Landlord, nor any other Person using all or any part of the Property as provided in this Section 4.6(b) may use the name or any logo or trademark or service mark of Tenant without the prior written Approval of Tenant, which Approval may be withheld, conditioned or delayed in Tenant's sole and absolute discretion.

ARTICLE V

CONDITION OF LEASED PREMISES

5.1 Condition of Leased Premises; Disclaimer of Representations and Warranties.

TENANT ACKNOWLEDGES AND AGREES:

(a) EXCEPT AS EXPRESSLY PROVIDED HEREIN, THAT NEITHER LANDLORD NOR ANY AFFILIATE OR RELATED PARTY OF LANDLORD MAKES OR HAS MADE ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, CONCERNING (i) THE PHYSICAL CONDITION OF THE LEASED PREMISES (INCLUDING, BUT NOT LIMITED TO, THE GEOLOGY OR THE CONDITION OF THE SOILS OR OF ANY AQUIFER UNDERLYING THE LAND

Exhibit C

and other parking facilities, chilled water plant, design, development and construction of Improvements related thereto, the uses described in Section 4.6 above, and other similar and related uses, and uses ancillary and incidental to all of the foregoing and for no other purpose (collectively, "Permitted Uses").

Tenant agrees that the Permitted Uses are subject to (i) all Applicable Laws at any time applicable to the Leased Premises and (ii) the Permitted Exceptions, including the Deed Restrictions, to the extent that the same affect or relate to the Property and the Leased Premises and to the extent they are valid, enforceable and in effect; Landlord agrees to cooperate with Tenant to the extent deemed necessary by Tenant to contest any element of the Deed Restrictions which conflicts with any of the Permitted Uses and any attempted enforcement thereof, and Tenant agrees to reimburse Landlord (or Landlord's designee) for reasonable legal fees and expenses incurred by Landlord from and after the Effective Date in connection with any such contest or enforcement action prior to any termination of this Lease by Tenant pursuant to Section 23.1 b below, but only to the extent that such legal fees and costs are for payment of outside counsel selected by Tenant and reasonably approved by Landlord exceed Two Hundred Fifty Thousand and No (00) Dollars (\$250,000.00) and provided that Landlord provides Tenant with reasonable supporting documentation for such fees and costs.

MATTERS HELD – continued

Item 45a – continued

Nothing in this Article VII or elsewhere in this Lease shall constitute or be deemed to constitute a waiver by Landlord of the performance of its Governmental Functions or of any such Applicable Laws or of the duty of Tenant to comply with such Applicable Laws.

7.2 Prohibited Uses. Tenant shall not use, or permit the use of, the Leased Premises or the Improvements for any of the following (collectively, the "Prohibited Uses");

(a) Any use of the Leased Premises for events which could be in competition with the downtown multi-purpose arena to be constructed and leased to Rocket Ball, Ltd., ("Arena"); provided, however, that this restriction shall not prohibit the Leased Premises from being used for religious services and religious activities by religious organizations, K- 12 athletic functions, the Olympic Games, the Pan-American Games and for non-revenue generating public or civic ceremonies and forums (the provisions of this Section 7.2(a) shall be in effect only for so long as Landlord is bound to such restrictions and such restrictions affect the Leased Premises and Tenant's use thereof pursuant to any agreement with Rocket Ball, Ltd., its successors or assigns, relating to the use of the Arena). This restriction shall inure to the benefit of, and be enforceable by Rocket Ball, Ltd., and its successors and assigns. Notwithstanding the foregoing, if such restriction is superceded by a less restrictive non-compete agreement, such less restrictive agreement will supercede this restriction.

(b) Cause or permit obnoxious or offensive odors or fumes to emanate or be dispelled from the Improvements other than normal odors incident to any of the Permitted Uses;

(c) Cause or permit excessive accumulations of garbage, trash, rubbish or any other refuse in, on or about the Improvements;

(d) Create, cause, maintain or permit any public or private nuisance in, on or about the Improvements;

Exhibit D

operations of Tenant or on the ability of Tenant to conduct its business as presently conducted or as proposed or contemplated to be conducted (including, without limitation, the operation of the Improvements).

(g) Tenant's Investment in Alterations. Provided that Tenant does not terminate this Lease pursuant to a termination right set forth herein, Tenant agrees to invest Twenty Five Million and No/Dollars (\$25,000,000.00) or more in Alterations (to include a chilled water or other air conditioning system) within ten (10) years after the Commencement Date, provided that such ten (10) year period shall be extended for a reasonable period of time thereafter if Tenant is then pursuing plan approval or permits for any Alterations provided that Tenant is diligently pursuing such plan approval and/or permits. On or before Tenant's exercise of the option for the First Extended Term, Tenant shall deliver to Landlord Representative a written certification that Tenant's investment in Alterations equals or exceeds Twenty Five Million and No/Dollars (\$20,000,000). Upon request of Landlord Representative, Tenant shall provide reasonable supporting documentation evidencing the

MATTERS HELD – continued

Item 45a – continued

expenditure of funds that comprise such investment and the investment(s) contemplated under Section 3.2 hereof. Attached hereto as Exhibit C is a non-exhaustive list of items which qualify as “Tenant’s investment in Alterations”.

18.2 Tenant’s Covenants. As an inducement to Landlord to enter into this Lease, Tenant covenants and agrees during the construction of the Initial Alterations by Tenant as follows:

(a) to require its contractors to comply with the City’s Equal Opportunity Ordinance set forth on Appendix B.

(b) to comply with the following Minority and Women Business Enterprise programs of the City:

Tenant shall comply with the City’s Minority and Women Business Enterprise (“MWBE”) programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Tenant shall make good faith efforts to cause its general contractor to award to MWBEs subcontracts in at least 24% of design services, 20% of construction costs, 11% of supplies, and 30% of concession services. Tenant acknowledges that it has reviewed the requirements for good faith efforts on file with the City’s Affirmative Action Division and will comply with them.

Tenant shall require its general contractor to enter into written subcontracts with all of its MWBE subcontractors and to submit all disputes with MWBEs to binding arbitration if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Appendix “D”. If Tenant is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

(c) Tenant agrees to comply with the following City’s Drug Abuse Detection and Deterrence Policy:

TAGGED BY COUNCIL MEMBERS PARKER AND TATRO

COUNCIL MEMBERS BELL AND QUAN TAGGED COUNCIL MEMBER PARKERS AMENDMENTS.

Council Member Goldberg offered the following amendments:

1. That the lease Agreement with Lakewood Church, Inc. be modified to require that all City Dates, as defined in Section 4.6 (a) of the Lease Agreement, be rolled over and made available for use by the City in subsequent years of the Lease, if such dates are unavailable for use by the City due to the construction of improvements by Lakewood Church, Inc. unavailability of parking or unavailability of heating or air conditioning.
2. That Section 3.2 of the Lease Agreement with Lakewood Church, Inc. be modified to provide that if Lakewood Church, Inc. has failed to make \$69 Million in alterations (as defined in the Lease Agreement) during the initial 30 year term, the City shall have the right to terminate the Lease Agreement, including the 30 year renewal.

MATTERS HELD – continued

Item 45a – continued

3. That the ordinance be amended to provide that all rental payments to the City under the lease Agreement with Lakewood Church, Inc. be paid into a General Fund account or accounts.
4. That in order to guarantee use of the Compaq for any Olympics, the wording in Section 4.6(b) will substitute the word “shall” for “will” and Tenant shall also allow any use required for an Olympic test event separate and apart from either the 90 days for Olympic use or any of the city’s dates.
5. The initial rent payment shall be made in two \$4.75 million payments: one paid on lease execution and the other upon commencement of the lease agreement.

COUNCIL MEMBER BELL TAGGED

a. Motion 2001-1287 – Postpone two (2) weeks

ORDINANCE approving and authorizing lease agreement between **LAKWOOD CHURCH, INC**, a Texas Non-Profit Corporation, as tenant, and the City of Houston, Texas, as landlord, for the Compaq Center - **DISTRICT C- GOLDBERG**
TAGGED BY COUNCIL MEMBERS ROBINSON, PARKER and MAYOR BROWN
This was Item 9 on Agenda of November 28, 2001

Motion 2001-1289 – Suspend rules to consider Items 46, 47 and 48 out of order

46. Motion 2001-1291 – Refer back to the Administration

ORDINANCE approving and authorizing a fifth contract amendment between the City of Houston and the **SHELTERING ARMS**, Houston, Texas to extend the contract term and to provide an additional \$1,592,850.00 of Community Development Block Grant Funds for the continuation of an Emergency Home Repair Program - **TAGGED BY COUNCIL MEMBER GOLDBERG**
This was Item 14 on Agenda of November 28, 2001

47. Ordinance 2001-1076

ORDINANCE approving and authorizing a fifth contract amendment between the City of Houston and the **HOUSTON AREA URBAN LEAGUE** to extend the contract term and to provide an additional \$1,488,300.00 of Community Development Block Grant Funds for the continuation of an Emergency Home Repair Program - **TAGGED BY COUNCIL MEMBER TATRO**
This was Item 15 on Agenda of November 28, 2001

48. Ordinance 2001-1077

ORDINANCE approving and authorizing a fifth contract amendment between the City of Houston and the **NATIONAL ASSOCIATION OF MINORITY CONTRACTORS - HOUSTON CHAPTER** to extend the contract term and to provide an additional \$964,060.00 of Community Development Block Grant Funds for the continuation of an Emergency Home Repair Program
TAGGED BY COUNCIL MEMBER KELLER
This was Item 16 on Agenda of November 28, 2001

49. Ordinance 2001-1075

ORDINANCE appropriating \$2,926,000.00 out of Disaster Recovery Fund to contract between the City of Houston and **GILBANE BUILDING COMPANY** for continued restoration of Jones Hall
DISTRICT I - CASTILLO - **TAGGED BY COUNCIL MEMBER TATRO**
This was Item 18 on Agenda of November 28, 2001

MATTERS HELD – continued

50. Ordinance 2001-1097

ORDINANCE appropriating \$10,000.00 out of Fire Consolidated Construction Fund, CIP C-NA-00-1; \$10,000.00 out of Police Consolidated Construction Fund, CIP G-NA-00-1; and \$20,000.00 out of Convention and Entertainment Construction Fund, CIP B-0069-25-1; for payment of appraisal costs and Title Expenses, for and in connection with projects within the City of Houston's Capital Improvement Plan - **TAGGED BY COUNCIL MEMBER GOLDBERG**
This was Item 21 on Agenda of November 28, 2001

Resolution 2001-0049 – Commend Council Member Boney for distinguished public service

Resolution 2001-0050 – Commend Council Member Sanchez for distinguished public service

Resolution 2001-0051 – Commend Council Member Bell for distinguished public service

Resolution 2001-0052 – Commend Council Member Todd for distinguished public service

Resolution 2001-0053 – Commend Council Member Castillo for distinguished public service

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Keller 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

12/4/01 – Council Member Sanchez absent on personal business

12/5/01 – All Present