

AGENDA - COUNCIL MEETING - WEDNESDAY - SEPTEMBER 5, 2007 - 9:00 A. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS

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

PRAYER AND PLEDGE OF ALLEGIANCE - Council Member Clutterbuck

9:00 A. M. - ROLL CALL

ADOPT MINUTES OF PREVIOUS MEETING

9:30 A. 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

MAYOR'S REPORT - Darfur Disinvestments

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 1 through 32

MISCELLANEOUS - NUMBERS 1 and 2

1. REQUEST from Mayor for confirmation of the appointment of **MS. LAURA E. ARNOLD** to Position Three on the **CIVIL SERVICE COMMISSION FOR MUNICIPAL EMPLOYEES OF THE CITY OF HOUSTON** and on the **FIREFIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION**, to fill an unexpired term ending June 14, 2008
2. RECOMMENDATION from Director Department of Public Works & Engineering to approve refund for Water & Sewer Accounts for Diagnostic Center Hospital and Clinic, 6447 Main - \$62,939.48 Enterprise Fund

AGENDA - SEPTEMBER 5, 2007 - PAGE 2

ACCEPT WORK - NUMBER 3

3. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$737,204.49 and acceptance of work on contract with **CLEANSERVE, INC** for Sanitary Sewer Cleaning and Television Inspection in Support of Rehabilitation, WBS R-000266-00B6-4 - 2.70% over the original contract amount

PROPERTY - NUMBERS 4 through 7

4. RECOMMENDATION from City Attorney to deposit the Award of Special Commissioners, into the Registry of the Court, pay all costs of Court and settle the lawsuit for a total consideration of \$88,380.00 in connection with eminent domain proceeding styled City of Houston v. John M. Anderson and Virginia C. Bowman, et al., Cause No. 875,670, for acquisition of Parcel AY5-041; for the **HERITAGE CORRIDOR TRAILS EAST HIKE & BIKE TRAIL PROJECT**; WBS N-000420-0016-2 - **DISTRICT H - GARCIA**
5. RECOMMENDATION from City Attorney to settle eminent domain lawsuit styled City of Houston v. Nathaniel F. Starr, et al; Cause No. 866,189; for a total consideration of \$108,000.00 in connection with **SUNNYSIDE COURT STORM SEWER LATERALS PROJECT**; WBS/CIP M-000217-0001-2 - **DISTRICT D - EDWARDS**
6. RECOMMENDATION from Director Department of Public Works & Engineering approving and authorizing payments for appraisal services for **LEY ROAD PAVING IMPROVEMENTS PROJECT (North Wayside to Mesa Road)**, WBS N-000689-0001-2-01 - **DISTRICT B - JOHNSON**
7. RECOMMENDATION from Director Department of Public Works & Engineering that City Council declare surplus and authorize the sale of Parcels SY6-111, 12949 Westella and SY7-010, 2303 Briarbrook Drive and authorize the City Secretary to advertise the properties for sale **DISTRICT G - HOLM**

PURCHASING AND TABULATION OF BIDS - NUMBERS 8 and 9

8. **PHYSIO-CONTROL, INC** for Purchase of Lifepak Defibrillation Pads and Electrodes for Fire Department - \$688,224.00 - General Fund
9. **CENTRAL TURF FARMS, INC** for St. Augustine Sod Blocks for Department of Public Works & Engineering - \$997,864.80 - Enterprise Fund

ORDINANCES - NUMBERS 10 through 32

10. ORDINANCE **AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Junked Vehicle Abatement Procedures and notice of hearings for Dangerous Buildings; containing other provisions relating to the foregoing subject; providing for severability
11. ORDINANCE **AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to food and food establishments; containing other provisions relating to the foregoing subject; providing for severability
12. ORDINANCE **AMENDING SECTION 20-22 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Mobile Food Units and Commissaries; containing findings and other provisions relating to the foregoing subject; declaring certain conduct to be unlawful and providing penalties therefor; containing a savings clause; providing for severability

ORDINANCES - continued

13. ORDINANCE consenting to the addition of 27.5811 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 367**, for inclusion in its district
14. ORDINANCE establishing the north and south sides of the 600 block of Aurora Street and the north side of the 700 block of Aurora Street within the City of Houston as a special building line requirement area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas - **DISTRICT H - GARCIA**
15. ORDINANCE establishing the east and west sides of the 1200 block of Columbia Street within the City of Houston as a special building line requirement area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas - **DISTRICT H - GARCIA**
16. ORDINANCE establishing the north and south sides of the 1900 block of West Lamar Street within the City of Houston as a special building line requirement area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas - **DISTRICT D - EDWARDS**
17. ORDINANCE approving and authorizing option agreement between the City and **EARTHLINK, INC** for matters relating to the Broadband Network License and Service Agreements
18. ORDINANCE appropriating \$2,278,000.00 out of Houston Airport System Airports Improvement Fund (8011); authorizing the purchase of 63.948 acres of land and improvements thereon out of the A. R. Bodman Survey, A-141, Houston, Harris County, Texas, for Expansion of Bush Intercontinental Airport, CIP A-0421.13.1; approving a purchase and sale agreement with the owner of the land (Donald E, Fisher, Jr., Trustee) - **DISTRICT B - JOHNSON**
19. ORDINANCE appropriating \$949,709.06 out of Airports Improvement Fund and approving and authorizing agreement for Professional Architectural/Engineering Services between the City of Houston and **AAC DESIGNERS BUILDERS, INC d/b/a AUSTIN AECOM** at George Bush Intercontinental Airport/Houston, William P. Hobby Airport and Ellington Field; (Project No. 516C; WBS A-000138-0018-3-01) - **DISTRICTS B - JOHNSON; E - WISEMAN and I - ALVARADO**
20. ORDINANCE approving and authorizing lease agreement between the City of Houston and **MANNING FAMILY PARTNERSHIP, LP.** for certain premises at William P. Hobby Airport **DISTRICT I - ALVARADO**
21. ORDINANCE approving and authorizing lease agreement (Parking) between the City of Houston, Texas, as landlord (the "City"), and **BRENNANS OF HOUSTON, INC,** ("Tenant") for approximately 5,831 net rentable square feet of parking space located beneath the 527 Spur Overpass near the intersection of Hawthorne Street and Smith Street, Houston, Harris County, Texas 77006, for five (5) years with three five-year renewal options, at a monthly rental of \$600.00 **DISTRICT I - ALVARADO**
22. ORDINANCE appropriating \$1,246,349.10 out of Public Library Consolidated Construction Fund as an additional appropriation for Jesse H. Jones Central Library Renovation, WBS E-000011-0001-4, Carnegie Regional Branch Library Renovation, WBS E-000142-0001-4, and Marston Administration Building, WBS E-000158- 0001-4; and approving and authorizing first amendment to construction contract between the City of Houston and **3D/INTERNATIONAL, INC** (approved by Ordinance No. 2006-191); providing funding for contingencies relating to construction of facilities financed by the Public Library Consolidated Construction Fund - **DISTRICT I - ALVARADO**

ORDINANCES - continued

23. ORDINANCE approving and authorizing grant agreement between the City of Houston and the **TEXAS DEPARTMENT OF TRANSPORTATION** for the STEP Comprehensive Commercial Motor Vehicle Grant; declaring the City's eligibility for such grant; authorizing the Mayor to act as the City's representative in the application process; authorizing the Chief of the Police Department to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program
24. ORDINANCE approving and authorizing a grant agreement between the City of Houston and the **TEXAS DEPARTMENT OF TRANSPORTATION** for the STEP Comprehensive Grant; declaring the City's eligibility for such grant; authorizing the Mayor to act as the City's representative in the application process; authorizing the Chief of the Police Department to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program
25. ORDINANCE approving and authorizing the submission of an application for grant assistance to the **BUREAU OF JUSTICE ASSISTANCE** and acceptance of the grant under the SMART Office Support Program for Adam Walsh Act Implementation Grant Program; declaring the City's eligibility for such grant; authorizing the Mayor to act as the City's representative in the application process; authorizing the Chief of the Houston Police Department to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program; containing provisions relating to the subject - \$20,581.89 - General Fund
26. ORDINANCE approving and authorizing contract between the City of Houston and **THE CENTER SERVING PERSONS WITH MENTAL RETARDATION** to provide \$200,000.00 in Community Development Block Grant Funds for Vocational Training and Medical and Dental Services to individuals with a primary diagnosis of mental retardation - 1 Year
27. ORDINANCE appropriating \$196,000.00 out of Fire Consolidated Construction Fund and awarding contract to **SPRING EQUIPMENT COMPANY, INC** for Concrete Repair Services for Various Departments, WBS C-000089-0002-4-01, C-000089-003-4-01-01, establish a maximum contract amount - 1 Year with two one-year options - \$2,625,020.44 - General, Enterprise and Other Funds
28. ORDINANCE appropriating \$176,452.00 out of Water & Sewer System Consolidated Construction Fund and \$128,477.00 out of Drainage Improvement Commercial Paper Series F Fund; approving and authorizing Interlocal Cost Sharing Contract between the City of Houston and **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 410** for Construction of Water, Sanitary Sewer and Storm Sewer Lines for Section Four of the Clearview Village Subdivision, CIP S-000800-0102-4, R-000800-0102-4 & M-000800-0102-4 - **DISTRICT E - WISEMAN**
29. ORDINANCE appropriating \$270,606.00 out of Water & Sewer System Consolidated Construction Fund and \$300,000.00 out of Drainage Improvement Commercial Paper Series F Fund; approving and authorizing Interlocal Cost Sharing Contract between the City of Houston and **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 410** for Construction of Water, Sanitary Sewer and Storm Sewer Lines for Section Five of the Clearview Village Subdivision, CIP S-000800-0108-4, R-000800-0108-4 & M-000800-0108-4 - **DISTRICT E - WISEMAN**
30. ORDINANCE issuing a permit to **AMERESCO MCCARTY ENERGY, LLC**, to own, acquire, construct, operate, maintain, improve, repair, and replace pipelines in certain portions of specified public street rights-of-way and prescribing the conditions and provisions under which said permit is issued - **DISTRICTS B - JOHNSON and I - ALVARADO**

ORDINANCES - continued

31. ORDINANCE granting to **TNT WASTE CONTAINER SERVICE, a Texas Sole Proprietorship**, the right, privilege and franchise to collect, haul and transport Solid Waste and Industrial Waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions; and making certain findings related thereto - **FIRST READING**
32. ORDINANCE granting to **MAYFIELD TRUCKING, LLC, a Texas Limited Liability Corporation**, the right, privilege and franchise to collect, haul and transport Solid Waste and Industrial Waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions; and making certain findings related thereto - **FIRST READING**

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

MATTERS HELD - NUMBERS 33 through 38

33. RECOMMENDATION from Finance & Administration Department to adopt award to **BADGER METER, INC** - \$8,630,476.00, **HD SUPPLY WATERWORKS** - \$1,130,125.00, **AQUA-METRIC SALES COMPANY** - \$1,370,908.00 and **MACAULAY CONTROLS COMPANY** - \$1,037,529.00 for Water Meters and Water Meter Replacement Parts for Department of Public Works & Engineering - 5 Years - \$12,169,038.00 - Enterprise Funds
TAGGED BY COUNCIL MEMBERS GARCIA and JOHNSON
This was Item 8 on Agenda of August 29, 2007
34. ORDINANCE amending Ordinance No. 2006-118 to increase the maximum contract amount and approving and authorizing first amendment to Contract #C62204 between the City of Houston and **PHOENIX BUSINESS CONSULTING** for Professional SAP Programming Services; containing provisions relating to the subject - \$2,250,000.00 - Equipment Acquisition Consolidated and Other Funds - **TAGGED BY COUNCIL MEMBERS KHAN and HOLM**
This was Item 19 on Agenda of August 29, 2007
35. ORDINANCE approving and authorizing contract between the City of Houston and **VECTRAREPORTS.COM, INC** for Scanning, Storing and providing web-based retrieval of traffic accident reports for the Houston Police Department; providing a maximum contract amount 3 Years with two one-year options - \$70,000.00 - General Fund
TAGGED BY COUNCIL MEMBERS CLUTTERBUCK and HOLM
This was Item 21 on Agenda of August 29, 2007
36. ORDINANCE approving and authorizing professional services contract with **HUDSON & MARSHALL OF TEXAS, INC.**, a Texas Corporation, to advertise and conduct an auction of thirty-six (36) surplus tracts of land owned by the City of Houston; approving and authorizing a form of purchase and sale agreement to be entered into for such property, by the City of Houston, seller, and the highest bidder at auction for each such property, purchaser; authorizing the Mayor to execute, and the city secretary to attest, special warranty deeds conveying the properties to the highest bidder - **DISTRICTS A - LAWRENCE; B - JOHNSON; D - EDWARDS; E - WISEMAN; F - KHAN; G - HOLM and I - ALVARADO** - **TAGGED BY COUNCIL MEMBER HOLM**
This was Item 23 on Agenda of August 29, 2007

MATTERS HELD - continued

37. ORDINANCE amending Ordinance No. 2004-1130 to increase the maximum contract amount to contract between the City of Houston, **GT DISTRIBUTORS, INC** and **TASER INTERNATIONAL, INC** for Taser Devices, Accessories, Supplies and Repair Services for the Houston Police Department - \$1,871,942.22 - General Fund - **TAGGED BY COUNCIL MEMBERS JOHNSON, KHAN, HOLM, CLUTTERBUCK and EDWARDS**

This was Item 25 on Agenda of August 29, 2007

38. ORDINANCE appropriating \$200,851.00 out of Water & Sewer System Consolidated Construction Fund and \$171,000.00 out of Drainage Improvement Commercial Paper Series F Fund; approving and authorizing an interlocal cost sharing contract between the City of Houston and **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 410** for Construction of Water, Sanitary Sewer and Storm Sewer Lines for Section Six of the Clearview Village Subdivision; CIP S-000800-0107-4, R-000800-0107-4 and M-000800-0107-4 - **DISTRICT E - WISEMAN**
TAGGED BY COUNCIL MEMBER WISEMAN

This was Item 30 on Agenda of August 29, 2007

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Lawrence first

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

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

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

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

NOTICE is hereby given that a Regular Meeting of the City Council of the City of Houston will be held **WEDNESDAY, SEPTEMBER 5, 2007 at 9:00 a.m.** with the reading of the descriptions, captions or titles of the agenda items by the City Secretary to begin not earlier than 60 minutes before the scheduled commencement, in the Council Chamber, Second Floor, City Hall, 901 Bagby, for the purpose of conducting the regular business and affairs of the City of Houston listed on the attached Agenda.

WITNESS my official signature this the 31st day of AUGUST, 2007.

City Secretary

CERTIFICATE

I certify that the attached notice of meeting was posted on the Bulletin Board of the City Hall
of the City of Houston, Texas, on AUGUST 31, 2007 at : p.m.

by _____

for Anna Russell
City Secretary

**CITY COUNCIL CHAMBER – CITY HALL 2nd FLOOR – WEDNESDAY
SEPTEMBER 5, 2007 - 9:00 A.M.**

AGENDA

3MIN. 3MIN. 3MIN.

NON-AGENDA

3MIN. 3MIN. 3MIN.

MS. JENNIFER JACOBS – 11262 Pompano Lane – 77072 -281-236-1643 – Volunteer on a Commission Board

MS. TANZEEL MERCHANT – 418 Misty Creek – Missouri City – TX – 77459 – 832-875-7555 – Minority Business Bid

MS. SUSAN STEIN – 3222 Hazy Park – 77082 – 713-907-1101 – Homeowners Association effectiveness

MS. SANDRA MASSIE-HINES – 4425 Alvin – 77051 – 713-731-9806 – 911 refuse to call cell citizen being shot at

MR. PAUL LEE – 6007 Y. St. – Katy – TX – 77493 – 281-391-7173 – Bad cop

MR. JOSE FERNANDO – 110 McCullough – San Antonio – TX – 78215 – 832-264-35484 - Crimes

MR. SHAFIQ SHIVGI – 9888 Bissonnet, No. 150 – 77036 – 832-391-4271 – School for underprivileged children

MR. MUNIR SHIVGI - - 9888 Bissonnet, No. 150 – 77036 – 832-391-4271 – School for underprivileged Children

MR. NASRUDDIN RUPANI - - 9888 Bissonnet, No. 150 – 77036 – 832-391-4271 – School for underprivileged children

DR. AIJAZ KHOWAJA – 9888 Bissonnet, No. 150 – 77036 – 832-391-4271 – School for underprivileged children

MR. TRENT WINTERS – 7967 W. Airport – 77071 – 832-882-7761 – Immigration Plus/Minus

MS. CHRISTY PERKINS – 13201 Vicksburg – 77015 – 713-453-3994 – Street Maintenance

MS. ADRIENE ANDERSON – 14226 Glasgow Place – 77077 - 832-289-3000 – VECTRA

MR. ELLIS MUNOZ – 14226 Glasgow Place – 77077 – 936-441-5291 – VECTRA

PREVIOUS

1MIN. 1MIN. 1 MIN.

PRESIDENT JOSEPH CHARLES - Post Office Box 524373 - 77052-4373 - 832-453-6376 – C/Houston – H/County Population – 911 – Calls Mandatory vs. – G/Mafia Terrorist/Headquarters



BILL WHITE
MAYOR

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

SEP 05 2007

COPY TO EACH MEMBER OF COUNCIL:
CITY SECRETARY: Y-22-07
COUNCIL MEMBER: _____
DATE

August 22, 2007

The Honorable City Council
City of Houston

Dear Council Members:

Pursuant to Texas Local Government Code, Chapter 143, Article Va of the City Charter, and Chapter 14 of the Code of Ordinances, I am appointing Ms. Laura E. Arnold to Position Three on the Civil Service Commission for Municipal Employees of the City of Houston and on the Firefighters' and Police Officers' Civil Service Commission, subject to the confirmation of City Council, to fill an unexpired term ending June 14, 2008.

The résumé of the appointee is attached for your review.

Sincerely,

A handwritten signature in cursive script that reads "Bill White".

Bill White
Mayor

BW:CC:jsk

Attachments

cc: Ms. Candy Aldridge, acting director, Human Resources



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

SUBJECT: Refunds to Water and Sewer Accounts	Category # 9	Page 1 of 1	Agenda Item # 2
FROM (Department or other point of origin): Michael S. Marcotte, P.E., DEE, Director Department of Public Works and Engineering	Origination Date: 8/31/07	Agenda Date: SEP 05 2007	
DIRECTOR'S SIGNATURE <i>M.S. Marcotte</i>	Council District affected: C		
For additional information contact: Karen Leback, Phone: 713-371-1136 <i>KL</i>	Date and identification of prior authorizing Council action:		

RECOMMENDATION: (Summary)
That City Council approve the refund to Diagnostic Center Hospital and Clinic.

Amount and Source of Funding:
\$62,939.48 Water and Sewer System Operating Fund (8300)

F&A Budget:

SOURCE OF FUNDING: General Fund Grant Fund Enterprise Fund

SPECIFIC EXPLANATION: City Council approval is requested on a refund in excess of \$50,000 on the following account. This account has been researched by Linebarger Goggan Blair & Sampson, LLP and no delinquent city taxes are owed.

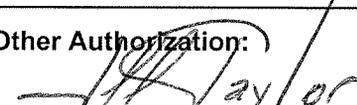
Diagnostic Center Hospital and Clinic
6447 Main
Reason: Active Account – Over Read Adjustment

Account # 5201-2950-6272
Voucher Refund - \$62,939.48

A representative with Diagnostic Center Hospital and Clinic is requesting a voucher in the amount of \$62,939.48. This credit is the result of the account being estimated from February 2006 to March 2007. The meter was inaccessible due to heavy construction in the area. During this time the monthly bills and readings were based on a system generated average. In April 2007 we discovered the meter was not in use and that we had over estimated the usage on the account. Based on this information, the adjustment was processed and the remaining credit of \$62,939.48 is due to the customer.

c: Marty Stein
Susan Bandy
Karen F. Leback
Gary Norman

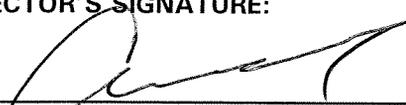
REQUIRED AUTHORIZATION		CUIC ID # 20KFL023
F&A Budget:	Other Authorization: <i>Susan Bandy</i> Susan Bandy, Deputy Director PWE/Resource Management Division	Other Authorization:

SUBJECT: Accept Work for Sanitary Sewer Cleaning and Television Inspection in Support of Rehabilitation WBS# R-000266-00B6-4		Page 1 of 1	Agenda Item # 3
FROM (Department or other point of origin): Department of Public Works and Engineering		Origination Date 8/30/07	Agenda Date SEP 05 2007
MS DIRECTOR'S SIGNATURE:  Michael S. Marcotte, P.E., DEE, Director		Council District affected: All	
For additional information contact: Roger B. Whitney, P.E. Sr. Assistant Director Phone: (713) 641-9198		Date and identification of prior authorizing Council action: Ordinance No. 2004-1037 dated, 10/06/2004	
RECOMMENDATION: (Summary) Pass a motion to approve the final contract amount of \$737,204.49, which is approximately 2.70% over the original contract amount, accept the work, and authorize final payment.			
Amount and Source of Funding: No additional funding required. Original appropriation of \$773,080.00 for construction and contingencies from Water and Sewer System Consolidated Construction Fund No. 755.			F&A Budget:
SPECIFIC EXPLANATION: <p>PROJECT NOTICE/JUSTIFICATION: Under this project the contractor provided cleaning and television inspection in support of rehabilitation to deteriorated sewer collection systems throughout the City.</p> <p>DESCRIPTION/SCOPE: This project consisted of sanitary sewer cleaning and television inspection in support of rehabilitation. The project was awarded to CleanServe, Inc. with an original contract amount of \$717,832.23. The Notice to Proceed date was January 17, 2005 and the project had 455 calendar days for completion.</p> <p>LOCATION: The project was located at various locations within all Council Districts.</p> <p>CONTRACT COMPLETION AND COST: The Contractor, CleanServe, Inc., has completed the work under the contract. The contract was completed within the time allowed by the 60 day extension of Change Order No. 1. The final cost of the project is \$737,204.49, which is approximately 2.70% over the original contract amount. More sewer cleaning and TV inspections were actually made than anticipated.</p> <p>M/WDBE PARTICIPATION: No M/WDBE participation goal was established for this project.</p> <p>MSM:JT:RBW:JGM:FOS:mf Attachments</p> <p>c: Velma Laws Michael Ho, P.E. Craig Foster</p>			
Project File 4277-20		REQUIRED AUTHORIZATION	
F&A Director:		Other Authorization:	
Other Authorization:		Other Authorization:  Jeff Taylor, Deputy Director Public Utilities Division	

4277-20		Sanitary Sewer Cleaning and Television Inspection		
		in Support of Rehabilitation		
GFS No. R-0266-B6-3		CleanServe, Inc.		
WORK ORDER	KEY MAP	Subdivision	BASIN	CD
18	411V	OAK OF INWOOD	NW151	A
17	372R, 372V	GREENSPOINT	NG112	B
4	530S	BONNIE BRAE ORANGE ORCHARD	Ne011	C
14	532K	SUNNYSIDE EXTENSION SOUTH	SW201	C
15	491U	HOUSTON GALLERIA CONDO AMEND	SW223	C
25	491T	WESTHEIMER	SW238	C
2	493N	ALDEN PLACE	Ne011	D
5	533U	SUNNYSIDE COURTS	Ne011	D
9	573G-F	SCOTTCREST	Ne011	D
10	572F,572K	GLEN IRIS	Ne011	D
12	492R,V-493N,S	ROSEMONT	Ne011	D
22	534N	SOUTH PARK	SB118	D
19	338L	SCOTTS POINT	CB006	E
20	338J	LAKESWOOD HEIGHTS	CB004	E
1	530F	SHARPSTOWN COUNTRY CLUB TERRACE	Ne011	F
6	530Q	BONNIE BRAE ORANGE ORCHARD	Ne011	F
26	530F	SHARPSTOWN COUNTRY CLUB ESTATES	SW039	F
13	489D	FONN VILLAS	WDP06	G
7	414X	FARRINGTON PLACE	Ne011	H
11	494P	NAVIGATION	Ne011	H
3	493Y	HOLMAN	Ne011	I
8	493V	HOLMAN	SB123	I
16	535T	GLENBROOK VALLEY	SBP12	I
21	495J	GLENDALE	IB033	I
23	534V	ANDOVER PLACE	SB093	I
24	534Y	OVERBROOK	SB092	I

SUBJECT: Parcel AY5-041; <i>City of Houston v. John M. Anderson and Virginia C. Bowman, et al.</i> , Cause No. 875,670; Heritage Corridor Trails East Hike & Bike Trail Project (WBS No. N-000420-0016-2); L.D. File No. 052-9700046-005	Category #	Page 1 of 2	Agenda Item # 4
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FROM (Department or other point of origin): Legal Department, Real Estate Division Arturo G. Michel, City Attorney	Origination Date 05/16/07	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: 	Council District affected: "H" Adrian Garcia; K.M.# 493M
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For additional information contact: Russell G. Richardson Phone: 713 437-6748 (alternatively Joseph N. Quintal @ 713 437-6750)	Date and identification of prior authorizing Council action: Mot.#2006-0790, psd. 09/06/06; Ord.#2006-729, psd. 06/28/06
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RECOMMENDATION: (Summary)
 That the City Attorney be authorized, by Motion, to deposit the amount of the Award of Special Commissioners, being \$41,490.00, into the registry of the Court, pay all costs of Court and settle the referenced lawsuit for the total consideration of \$88,380.00. Funding will be provided by a previously approved blanket Appropriation Ordinance.

Amount of Funding: \$94,102.00; No additional funding required	F & A Budget:
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SOURCE OF FUNDING: General Fund Grant Fund Enterprise Fund
 Street and Bridge Consolidated Construction Fund

Other (Specify)

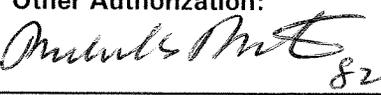
SPECIFIC EXPLANATION:

The Heritage Corridor Trails East Hike & Bike Trail Project will provide a safer route of travel for bicyclist and/or hikers away from street traffic. Various trails will encourage an alternative method of commuting within the City.

This particular eminent domain proceeding involves the acquisition of a permanent easement containing 982 square feet (0.0225 acre) of land. The property at 807 North San Jacinto is being utilized as a surface parking lot. The City's taking will, wholly or partially, impact thirteen (13) parking spaces. The City's final offer of \$73,650.00 (i.e. \$75.00 psf) was rejected by the landowners as being well below market value for the property interest being acquired. The landowners submitted a counter-offer in the amount of \$200,000.00 (i.e. 204.00 psf) for the property interest being acquired. The counter-offer was reviewed and rejected, both by the City of Houston and the Texas Department of Transportation, as being outside the range of market value. Efforts by Public Works & Engineering, Real Estate Division to negotiate the purchase of the parcel failed and the matter was referred to the Legal Department to initiate condemnation proceedings. The Legal Department initiated eminent domain proceedings against the property, cited the landowners as parties to the lawsuit and retained a different appraiser to value the property and testify at the Special Commissioners' Hearing. The landowners retained a law firm to represent their interest in the pending condemnation proceeding. The landowners and their attorney appeared at the Special Commissioners' Hearing, without an appraiser, and proceeded to present testimony regarding the loss of parking spaces and income. They provided several scenarios, using different capitalization rates, to reflect the extent of their anticipated monetary losses occasioned by the loss of the thirteen (13) parking spaces.

CUIC # 90AH185

h:\mark\andersonbowmanrca1c.wpd **REQUIRED AUTHORIZATION**

F&A Director:	Other Authorization: 	Other Authorization:  Andrew F. Icken, Deputy Director, Planning and Development Services Division
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Date 05/16/07	Subject: Parcel AY5-041; <i>City of Houston v. John M. Anderson & Virginia C. Bowman, et al</i> ; Heritage Corridor Trails East Hike & Bike Trail Project (WBS No. N-000420-0016-2); L.D. File No. 052-9700046-005	Originator's Initials RGR	Page 2 of 2
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Landowners: John M. Anderson and Virginia C. Bowman

Project: Heritage Corridor Trails East Hike & Bike Trail Project

Property: Parcel AY5-041; 982 s.f. (0.0225 acre); permanent easement

City's Testimony Before the Special Commissioners: \$41,490.00

(i.e. \$40.50 sf for the property interest being acquired, \$1,719.00 for the improvements situated thereon and no damage to the remainder). The Legal Department retained a different appraiser to value the property and testify at the hearing. His opinion of market value is \$32,160.00 less than the amount of the City's Final offer and is based upon the review of recent sales data in the immediate vicinity of the subject property which reflected a lower per square foot value for the property interest needed.

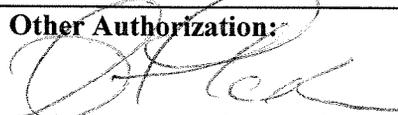
Award of Special Commissioners: \$41,490.00

The "**Costs of Court**" are as follows, to wit: \$167.00 Filing fee; \$130.00 Service of process fee; \$2,025.00 Special Commissioners' fees (i.e. \$675.00 x 3); \$3,400.00 Appraiser's fee; **Total:** \$5,722.00.

During the course of trial preparation, the parties were able to reconcile their respective differences and arrive at a proposed settlement in this matter subject to City Council's approval. The parties agreed to settle the referenced eminent domain matter for the sum of \$88,380.00 (\$90.00 psf). The proposed settlement reflects an increase of \$46,890.00 over the amount of the Award of Special Commissioners, but is only \$14,730.00 over the amount contained in the City's initial appraisal. In addition, the settlement agreement requires the landowners to relinquish any claims to the land situated outside of their deeded property and waive any claim or standing in the City's pending acquisition of adjacent railroad property at this location.

The "costs of court", amount of the Award of Special Commissioners and the settlement amount of \$46,890.00, when combined, reflects the total amount of funds being requested herein.

We recommend that the City Attorney be authorized, by Motion, to deposit the amount of the Award of Special Commissioners, being \$41,490.00, into the registry of the Court, pay all costs of Court and settle the referenced eminent domain matter for the total consideration of \$88,380.00. Funding will be provided by a previously approved blanket Appropriation Ordinance.

SUBJECT: Request for COUNCIL MOTION approving and authorizing payments for appraisal services for the LEY ROAD PAVING IMPROVEMENTS PROJECT (NORTH WAYSIDE TO MESA ROAD), W.B.S.: N-000689-0001-2-01.		Category #7	Page 1 of 1	Agenda Item # 6
FROM: (Department or other point of origin): Department of Public Works and Engineering		Origination Date 8/30/07		Agenda Date SEP 05 2007
DIRECTOR'S SIGNATURE:  Michael S. Marcotte, P.E., DEE, Director		Council District affected: B Key Map 455Kand 455L		
For additional information contact: Nancy P. Collins Phone: (713) 837-0881 Senior Assistant Director		Date and identification of prior authorizing Council Action: 2005-397 4/20/05		
RECOMMENDATION: (Summary) Request for COUNCIL MOTION approving and authorizing payments for appraisal services for the LEY ROAD PAVING IMPROVEMENTS PROJECT (NORTH WAYSIDE TO MESA ROAD), W.B.S.: N-000689-0001-2-01.				
Amount and Source of Funding: No additional funding required. (\$74,800.00 covered under Blanket Appropriation Ordinance 2005-397 N-00663A-00RE-2-01 Street and Bridge Consolidated Construction Fund 437)		F&A Budget:		
SPECIFIC EXPLANATION: The LEY ROAD PAVING IMPROVEMENTS PROJECT (NORTH WAYSIDE TO MESA ROAD), provides for right-of-way appraisal, acquisition, engineering, and construction. The subject project contains sixty-one parcels (four of which are already owned by the City of Houston), comprised of partial takings varying in size from 50 square feet to 92,805 square feet. The City of Houston already owns four of these, AY6-198 through AY6-201. The parent tracts out of which the parcels will be acquired range in size from 0.21 acre to 200 acres consisting of vacant, commercial, and residential properties. The total estimate of appraisal service fees for Parcels AY6-166 through AY6-197, AY6-202 through AY6-225, and LY6-015 and LY6-016 is \$74,800.00. Independent Fee Appraiser, Michael Urban, MAI, SRPA, SRA, will provide appraisal services at a fee of \$38,100.00 for parcels AY6-166 through AY6-177; AY6-190 through AY6-197; AY6-214 through AY6-218; AY6-220 through AY6-222, and AY6-224. Independent Fee Appraiser, David Dominy, MAI, will provide appraisal services at a fee of \$36,700.00 for Parcels AY6-178 through AY6-189; AY6-202 through AY6-213; AY6-219, AY6-223, AY6-225, and LY6-015 and LY6-216. Therefore, it is recommended that authority be given through Council Motion approving and authorizing the payment of \$74,800.00 for the costs of appraisal services associated with the acquisition/condemnation of parcels for the LEY ROAD PAVING PROJECT. AFI: NPC: RA: ra cc: Marty Stein Waynette Chan Gary Norman Daniel W. Krueger, P.E.				
S: reales/wpdata/appraise/adams/RCA-fy07LeyRd2.wpd <p style="text-align: center;">REQUIRED AUTHORIZATION</p> <p style="text-align: right;">CUIC #20REA01 <i>NDT</i></p>				
Other Authorization:		Other Authorization:		Other Authorization:  Andrew F. Icken, Deputy Director Planning and Development Services Division

SUBJECT: Sale of Parcels SY6-111 and SY7-010.	Category # 7	Page 1 of 2	Agenda Item # 7
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FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 8/30/07	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: <i>MS</i>  Michael S. Marcotte, P.E., DEE, Director	Council Districts affected: G Key Map 488Q and 489V
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For additional information contact: Nancy P. Collins <i>mpc</i> Phone: (713) 837-0881 Senior Assistant Director-Real Estate	Date and identification of prior authorizing Council Action:
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RECOMMENDATION: (Summary)
It is recommended City Council declare surplus and authorize the sale of Parcels SY6-111 and SY7-010.

Amount and Source of Funding: Not Applicable	F & A Budget:
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SPECIFIC EXPLANATION: The jurisdictional departments have declared Parcels SY6-111 and SY7-010, as detailed in Exhibit A, surplus to their needs and available for sale. All City departments with land needs have been canvassed and have indicated no interest in the properties. The properties now may be considered surplus to the City's needs and may be made available for sale to the highest bidder according to Section 272.001(a) of the Local Government Code and Section 2-236 of the Houston Code of Ordinances.

Therefore, it is recommended City Council:

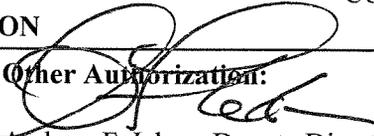
1. Declare surplus and authorize the sale of Parcels SY6-111 and SY7-010, subject to the City's billboard restrictions; all easements; all public utilities; and the applicable covenants, conditions, and restrictions.

The sale of Parcel SY6-111 will also be subject to the following provision which shall be included in the deed upon sale of the property:

The use of the Property, in whole or in part, shall never include use as (a) a sexually-oriented business [defined as an "enterprise" in Section 28-121 of the Houston Code of Ordinances, as hereafter amended from time to time], (b) an industrial site, or (c) a waste disposal site. This covenant shall be a separate and distinct covenant running with the land, for the benefit of owners of real property in the area that would be negatively affected by any such prohibited use. The City of Houston, its successors or assigns, shall have the right to enforce the performance of this covenant by the appropriate legal action, including but not limited to injunctive relief. No act or omission upon the part of any benefited property owner shall be a waiver of the operation or enforcement of this covenant.

tp\20tp09.rca CUIC #20TP09

REQUIRED AUTHORIZATION

Other Authorization:	Other Authorization:  Andrew F. Icken, Deputy Director Planning and Development Services Division
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Date:	Subject: Sale of Parcels SY6-111 and SY7-010	Originator's Initial	Page <u>2</u> of <u>2</u>
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As a condition of the sale of Parcels SY7-010 the successful bidder must execute at closing an "Acknowledgment of Deed Restrictions," in a form substantially similar to the form attached as Exhibit B.

2. Authorize the City Secretary to advertise the properties for sale to the highest bidder;
3. Authorize the Legal Department to prepare the necessary transaction documents.
4. Inasmuch as the value of the property interests is expected to exceed \$25,000.00, that the City Council appoint the following independent real estate appraisers to establish the values for Parcels SY6-111 and SY7-010.

Parcel SY6-111

12949 Westella

Council District G

Julie Albright and William Kvinta

Parcel SY7-010

2303 Briarbrook Drive

Council District G

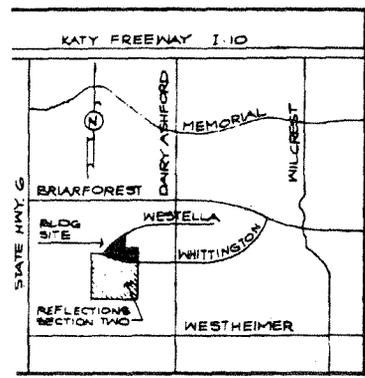
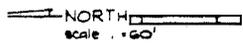
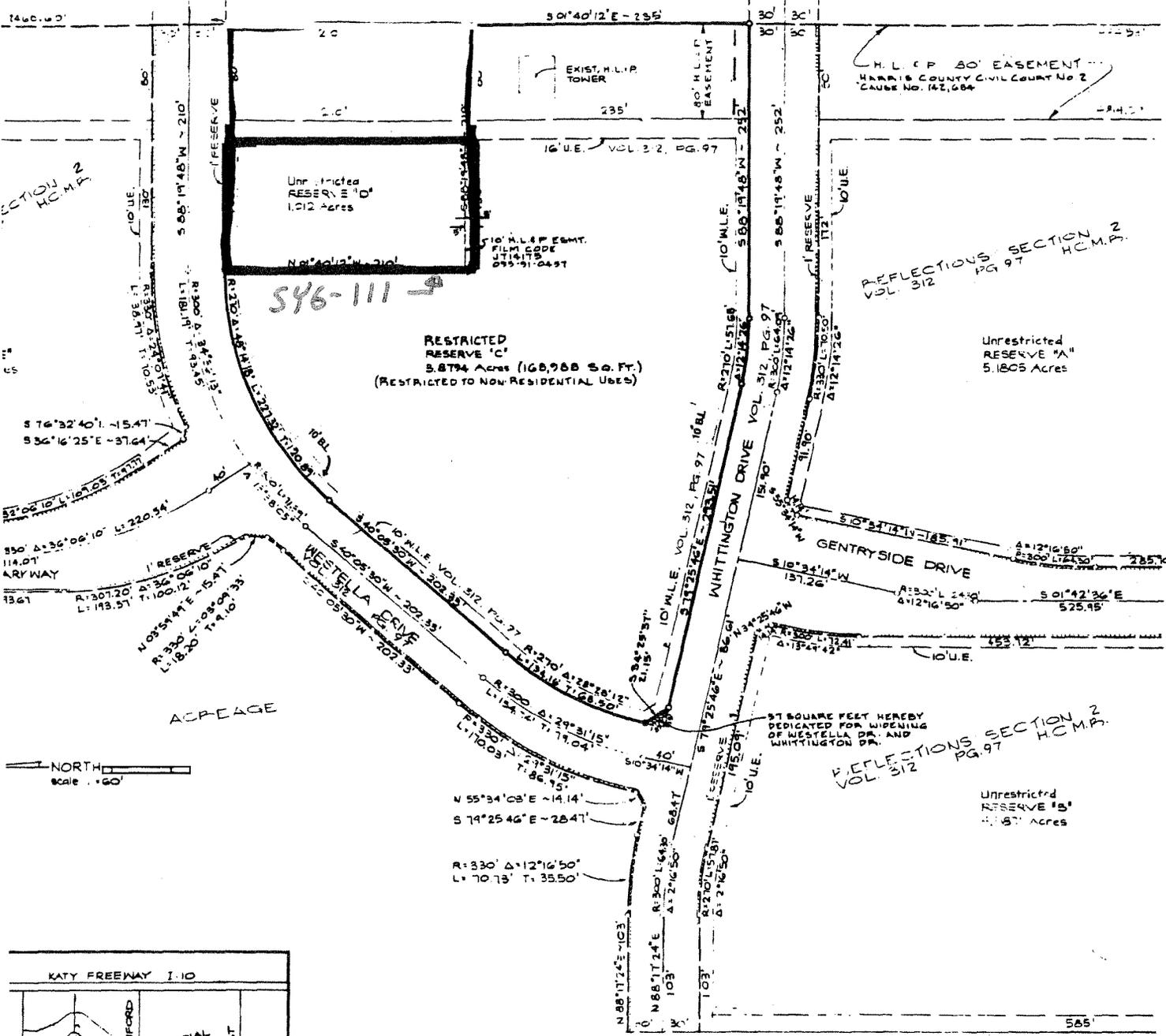
Alan Dominy and Tom Kvinta

MSM:AFI:NPC

C: Marty Stein, Arturo Michel, Bob Christy

EXHIBIT A

Item No.	Parcel No.	Property Acquired For	Address/ Site Location	Key Map	Council District	Land Size
1	SY6-111	Water Well Site	12949 Westella	488Q	G	27,002 sq. ft.
2	SY7-010	Water Plant Site	2303 Briarbrook Drive	489V	G	18,456 sq. ft.



VICINITY MAP
no scale

PURPOSE OF THIS REPEAT IS FOR THE PURPOSE OF DELETING THE 1' RESERVE, TO CHANGE UNRESTRICTED TO RESTRICTED RESERVE AND TO PROVIDE A 15' CUT BACK & INTERSECTION OF WESTELLA DRIVE AND WHITTINGTON DRIVE.

REFLECTIONS SECTION 2, RESERVE "C"

BEING A PARTIAL REPEAT OF 3.8794 ACRES OF REFLECTIONS SECTION 2 AS RECORDED IN H.C.M.R. VOLUME 312, PAGE 97, ALSO BEING IN THE JOEL WHEATON SURVEY, ABSTRACT 80 IN HARRIS COUNTY, TEXAS.

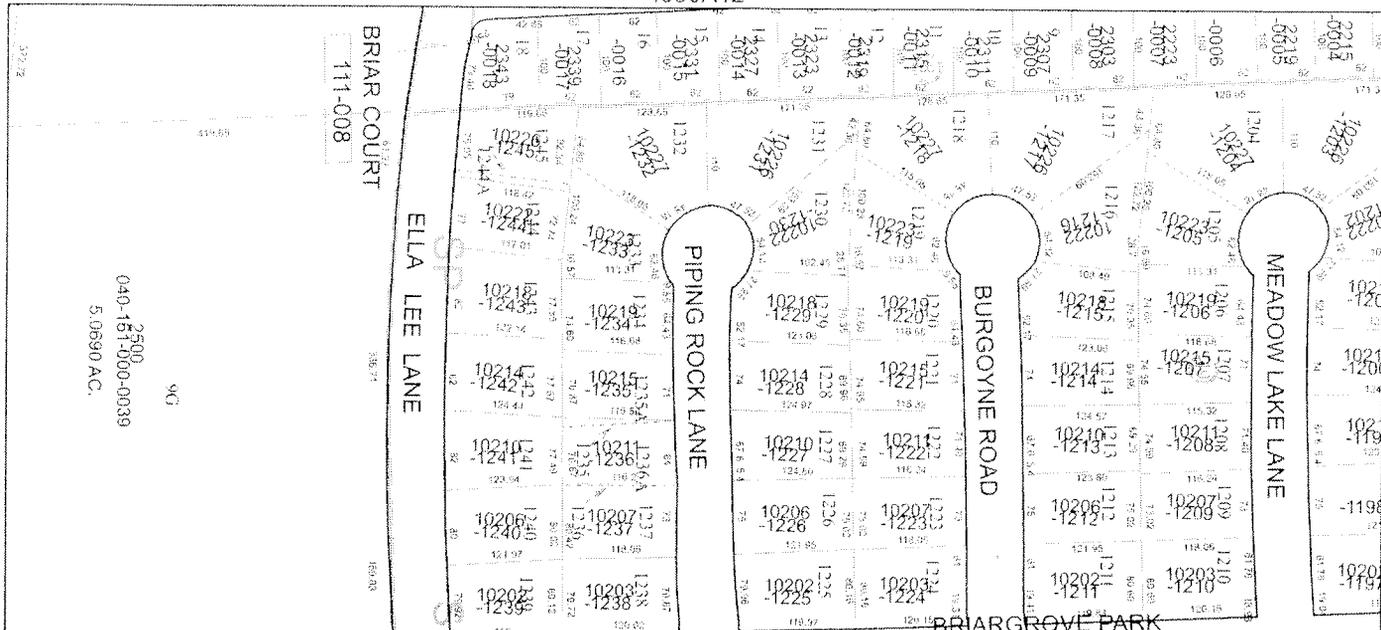
1 BLOCK 1 LOT
APRIL 21, 1986
APRIL 15, 1987
SCALE 1" = 60'

ENGINEER
MUNICIPAL ENGINEERING CO., INC.
3301 FEDERAL ROAD
PASADENA, TEXAS 77504
PHONE: 713-941-8988

OWNER
BETTY KELLY MOORE,
TRUSTEE
13077 WESTELLA DR.
HOUSTON, TEXAS 77077
PHONE: 713-496-7900

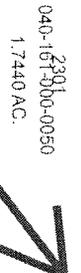
Site Development Plans for the Future Development of This Reserve Must Be Approved by the HCFCD, and the Harris County Engineers Office.

4956A12



2500
040-161-000-0039
5.0690 AC.
WJ

Parcel SY7-010
2303 Briarbrook Drive



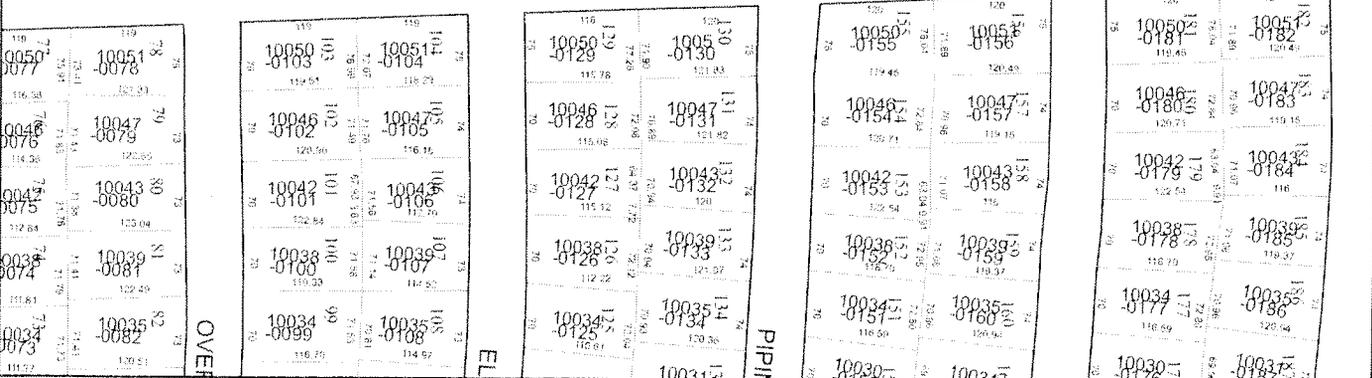
040-161-000-0050
1.7440 AC.

040-161-000-0042
8.5297 AC.

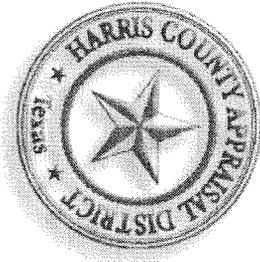
4956D1

4956B5

BRIARBROOK DRIVE



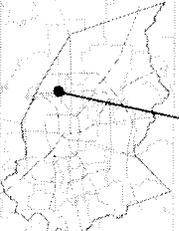
4956B10



Harris County Appraisal District



MAP LOCATION



FACET 4956B

1	2	3	4
5	6	7	8
9	10	11	12

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary **RCA# 7556**
Subject: Approve the Sole Source Purchase of Lifepak Defibrillation Pads and Electrodes for the Fire Department
 S09-S22562 Category # 4 Page 1 of 1 Agenda Item 8

FROM (Department or other point of origin):
 Calvin D. Wells
 City Purchasing Agent
 Finance and Administration Department **Origination Date**
August 24, 2007 **Agenda Date**
SEP 05 2007

DIRECTOR'S SIGNATURE
 **Council District(s) affected**
All

For additional information contact:
 Karen Dupont Phone: (713) 859-4934
 Desiree Heath Phone: (713) 247-1722 **Date and Identification of prior authorizing Council Action:**

RECOMMENDATION: (Summary)
 Approve the sole source purchase from Physio-Control, Inc. in an amount not to exceed \$688,224.00 for Lifepak defibrillation pads and electrodes for the Fire Department.

Estimated Spending Authority: \$688,224.00 **F & A Budget**

\$688,224.00 General Fund (1000)

SPECIFIC EXPLANATION:
 The City Purchasing Agent recommends that City Council approve the sole source purchase from Physio-Control, Inc. in an amount not to exceed \$688,224.00 for Lifepak® defibrillation pads and electrodes for the Fire Department. It is further requested that authorization be given to make purchases, as needed, for a 60-month term.

Physio-Control, Inc. is the sole manufacturer, supplier and distributor of these supplies.

This award consists of approximately 7,200 infant and pediatric defibrillation pads and 15,000 quick-connect ECG electrodes for adults. These supplies will be utilized to resuscitate patients that have experienced cardiac arrest. The infant and pediatric defibrillation pads contain special electrodes that reduce the energy dose delivered to a very small patient.

This recommendation is made pursuant to Chapter 252, Section 252.022 (a)(7)(A) of the Texas Local Government Code for exempted procurements.

Buyer: Laura A. Marquez

Attachment: M/WBE zero-percent goal document approved by the Affirmative Action Division.

Estimated Spending Authority:

DEPARTMENT	FY08	OUT YEARS	TOTAL
Fire	\$138,000.00	\$550,224.00	\$688,224.00

REQUIRED AUTHORIZATION

F&A Director: Other Authorization: Other Authorization:

NDT



CITY OF HOUSTON

Finance & Administration Department
Strategic Purchasing Division (SPD)

Interoffice

Correspondence

To: Kevin M. Coleman, C.P.M.
Assistant Purchasing Agent

From: Laura A. Marquez

Date: August 21, 2007

Subject: MWBE Participation Form

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

I am **requesting** a MWBE goal below 11% (To be completed by SPD, and prior to advertisement): Yes No 0%

I am requesting a **revision** of the MWBE Goal: Yes No Original Goal: _____ New Goal: _____

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

Solicitation Number: S09-S22562 Estimated Dollar Amount: \$688,224.00

Anticipated Advertisement Date: 7/23/2007 Solicitation Due Date: 7/31/2007

Goal On Last Contract: n/a Was Goal met: Yes No

If goal was not met, what did the vendor achieve: n/a

Name and Intent of this Solicitation:

This bid covers infant and pediatric defibrillation pads and ECG electrodes for the LifePak 500 Defibrillator and LifePak 12 that is employed by the Fire Department's EMS to revive infants and children experiencing cardiac arrest.

Rationale for requesting a Waiver or Revision (Zero percent goal or revision after advertisement):
(To be completed by SPD)

The manufacturer, Medtronic Physio-Control, sells its product directly to the City. They will ship these defibrillation pads via UPS from Washington directly to the City thus, there is not an opportunity for a certified M/WBE.

Concurrence:

SPD Initiator

Division Manager

Robert Gallegos, Deputy Assistant Director
*Affirmative Action

Kevin M. Coleman, C.P.M.
Assistant Purchasing Agent

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

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary		RCA# 7493	
Subject: Formal Bids Received for St. Augustine Sod Blocks for the Public Works & Engineering Department S08-S22315		Category # 4	Page 1 of 2 Agenda Item 9

FROM (Department or other point of origin): Calvin D. Wells City Purchasing Agent Finance and Administration Department	Origination Date August 16, 2007	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE <i>MS Calvin D. Wells</i>	Council District(s) affected All
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For additional information contact: Gary Norman Phone: (713) 837-7425 Desiree Heath Phone: (713) 247-1722	Date and Identification of prior authorizing Council Action:
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RECOMMENDATION: (Summary)
Approve an award to Central Turf Farms, Inc. on its low bid in an amount not to exceed \$997,864.80 for St. Augustine sod blocks for the Public Works & Engineering Department.

Estimated Spending Authority: \$997,864.80	F & A Budget
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\$997,864.80 - PWE Water & Sewer System Operation Fund (8300)

SPECIFIC EXPLANATION:
The City Purchasing Agent recommends that City Council approve an award to Central Turf Farms, Inc. on its low bid in an amount not to exceed \$997,864.80, for St. Augustine sod blocks for the Public Works & Engineering Department. It is further requested that authorization be given to make purchases, as needed, for a 60-month period. This award consists of approximately 631,560 square yards of St. Augustine sod blocks to be used by the Department to replace existing grass that has been damaged during underground water/sewer system repairs and installations citywide.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Eighteen prospective bidders viewed the solicitation document on SPD's e-bidding website, and five bids were received as outlined below:

	<u>COMPANY</u>	<u>TOTAL AMOUNT</u>
1.	Central Turf Farms, Inc.	\$ 997,864.80
2.	Saddlebrook, Inc.	\$1,105,230.00
3.	Landscape Cooperative	\$1,130,492.40
4.	JSB & Associates	\$1,326,276.00
5.	VOT Sod, L.P.	\$1,831,524.00

M/WBE Subcontracting:
This bid was issued with an 11% goal for M/WBE participation. **Central Turf Farms, Inc.** has designated the below-named company as its certified M/WBE subcontractor:

<u>Company</u>	<u>Scope of Service</u>	<u>Amount</u>
Oil Products Distribution, Ltd.	Provide Diesel Fuel	\$109,765.13

The Affirmative Action Division will monitor this award.

Buyer: Laura Marquez

REQUIRED AUTHORIZATION		
F&A Director:	Other Authorization:	Other Authorization: NDT

Date: 8/16/2007	Subject: Formal Bids Received for St. Augustine Sod Blocks for the Public Works & Engineering Department S08-S22315	Originator's Initials AD	Page 2 of 2
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ESTIMATED SPENDING AUTHORITY:

DEPARTMENT	FY2008	OUT YEARS	TOTAL
Public Works & Engineering	\$199,572.96	\$798,291.84	\$997,864.80

REQUEST FOR COUNCIL ACTION

SUBJECT: An ordinance amending Chapter 10 of the Code of Ordinances relating to junked vehicle abatement procedures and notice of hearings on dangerous buildings.	Category	Page 1 of 1	Agenda Item # 10
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FROM (Department or other point of origin): Houston Police Department	Origination Date: August 20, 2007	Agenda Date: SEP 05 2007
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DIRECTOR'S SIGNATURE: Harold L. Hurtt, Chief of Police 	Council District affected: All
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For additional information contact: D. A. Edwards, Assistant Chief 713-218-5772	Date and identification of prior Authorizing Council action:
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RECOMMENDATION:

The Neighborhood Protection Corps recommends that City Council approve an ordinance conforming hearing requirements for junked vehicles and dangerous buildings to state law changes to be effective September 1, 2007.

Amount and Source of funding: N/A	F&A Budget:
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EXPLANATION:

Neighborhood Protection recommends that City Council approve amendments to Chapter 10 of the Code of Ordinances as outlined below.

Sections 10-347, 10-364, and 10-369 currently require delivery of notice of building violations by certified mail, return receipt requested. The 80th legislature amended the statute to allow notice using equivalent, current technology offered by the U.S. Postal service (signature confirmation). The legislative change was effective June 15, 2007.

Section 10-533 currently requires a hearing on junked motor vehicles prior to abatement by the City as required by previous state law. The 80th legislature amended the junked motor vehicle statute to clarify that a junked motor vehicle hearing is required only when requested by the vehicle owner (Senate Bill 350). The definition of a junked motor vehicle was also amended. In order to avoid the designation of a junked motor vehicle, a vehicle must have a current license tag and a current inspection certificate. Current ordinance provisions only require one of the two to be current. The effective date of the legislative changes is September 1, 2007.

The proposed amendments conform City ordinance to state law through amendment and by reference.

10MDF080-HPD

REQUIRED AUTHORIZATION

City of Houston, Texas, Ordinance No. 2007-_____

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO JUNKED VEHICLE ABATEMENT PROCEDURES AND NOTICE OF HEARINGS FOR DANGEROUS BUILDINGS; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

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

Section 1. That Section 10-347 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 10-347. Notice of Hearing.

As an alternative to the process described in the preceding section 10-346 of this Code, if a premises, building, structure, or portion thereof has, upon inspection, been discovered to be in violation of this division, the neighborhood protection official may schedule a hearing concerning the violation to be held before either the commission or the hearing official. The neighborhood protection official shall serve written notice of the hearing, ~~by personal service, or by certified mail, return receipt requested in the manner prescribed by § 54.035(a)(1) of the Texas Local Government Code,~~ on all persons having an interest in the property as shown by the real property records of the county in which the property is located and all occupants thereof. The notice shall be mailed at least ten days prior to the date set for the hearing and shall inform such persons that a hearing will be held regarding the violation. Notice shall set for the specific conditions that render the premises, building, structure, or portion thereof to be in violation of the standards set forth in this division. Notice of the hearing shall also be posted on the building, or if no building, on the premises.

Section 2. That Section 10-364 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 10-364. Notice of Hearing.

If a building has, upon inspection, been discovered to be a dangerous building, then the neighborhood protection official shall serve written notice

August 23, 2007 (8:34am)

**DRAFT NOT YET APPROVED
BY THE CITY ATTORNEY**

on all persons having an interest in the property as shown by the real property records of the county in which the property is located ~~either by personal service or by certified mail, return receipt requested~~ and in the manner prescribed by § 54.035(a)(1) of the Texas Local Government Code. This notice shall inform the persons that a hearing will be held in which the city will seek an order requiring the building to be vacated and/or requiring the building to be repaired and/or demolished and/or secured upon a finding that the building is a dangerous building. The notice shall also set forth:

- (1) The specific conditions that render the building a dangerous building within the standards set forth in section 10-361 of this Code;
- (2) That a hearing will be held before a hearing official designated pursuant to this division in which the city will seek an order that the building be vacated, secured, repaired, and/or demolished as provided in section 10-366 of this Code;
- (3) The date, time and place of the hearing;
- (4) That all persons having an interest in the property may appear in person and/or be represented by an attorney and may present testimony and cross-examine all witnesses; and
- (5) That the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this division and the time it will take to reasonably perform the work.

If the address of any person having an interest in the property as shown in the deed records is unknown, or if notice to any person having an interest in the property is returned undelivered, a copy of such notice shall be posted in a conspicuous place on the property on which the building is located. The posting of such notice shall constitute notice to any person having an interest in the property who does not receive personal notice or notice by mail. In addition, the city may file notice of the hearing in the real property records of the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire an interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

Section 3. That Section 10-369(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

Section 10-369. Notice of Order.

(a) After the hearing, the city shall promptly ~~mail by certified mail, return receipt requested~~ provide, in the manner prescribed by § 214.001(g) of the Texas Local Government Code, a copy of the order to the owner of the building, and if the owner does not take the ordered action within the allotted time, the city shall promptly ~~personally deliver, mail by certified mail, return receipt requested, or deliver by United States Postal Service using signature confirmation service~~ a copy of the order to any lienholder or mortgagee of the building. The city shall use the real property records of the county in which the building is located to determine, if possible, the identity and address of any owner, lienholder, or mortgagee of the building. If the address of a person having an interest in the property as shown on the deed records is unknown, or if the order is returned undelivered, a copy of the order shall be posted in a conspicuous place on the building subject to the order. The posting of the order shall constitute notice to any person having an interest in the property who does not receive personal service.

Section 4. That Section 10-531 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 10-531. Definitions.

As used in this article the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning:

“Antique vehicle means a passenger car or truck that is at least 25 years old.

Junked vehicle means a vehicle as defined in item (9) of section 621.001 of the Texas Transportation Code, that is self-propelled and:

(1) Does not have lawfully attached to it:

a. an unexpired license plate; ~~or~~ and

b. a valid motor vehicle inspection certificate; and

(2) Is:

a. wrecked, dismantled or partially dismantled, or discarded; or

b. inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property;

or

(ii) 30 consecutive days, if the vehicle is on private property;

provided that the term 'junked vehicle' shall not be construed to include a vehicle or vehicle part:

(1) That is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property, or

(2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

a. maintained in an orderly manner;

b. not a health hazard; and

c. screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Motor vehicle collector means a person who:

(1) Owns one or more antique or special interest vehicles; and

(2) Acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Section 5. That Subsections (a), (b), and (c) of Section 10-553 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 10-533. Investigation; notice.

(a) Upon receipt of information that a vehicle or a part of a vehicle is in such a condition and location that it may be subject to removal under this article the neighborhood protection official shall investigate the facts. In making a determination how long a vehicle or part of a vehicle has remained inoperable the neighborhood protection official conducting the investigation may rely upon a sworn statement of a person working or residing near the place where the vehicle is situated, who has personal knowledge of the facts, provided that the person is willing to allow the affidavit to be disclosed to the vehicle owners/lienholders and to appear at the a public hearing, if one is requested by the vehicle owner/lienholder. ~~In each instance in which~~ if it is proposed to remove ~~appears that the~~ a vehicle or part of a vehicle under this article, is in fact subject to removal hereunder, the neighborhood protection official shall cause notice of a public hearing to be given as provided in subsection (b). not less than ten days’ notice of the nature of the nuisance shall be given to the persons specified in subsection (a) and in the manner specified in subsections (a), (b), and (c) as applicable, of section 683.075 of the Texas Transportation Code.

~~(b) In each instance in which it is proposed to remove a vehicle or a part of a vehicle under this article, not less than ten days’ notice of a public hearing shall be given to the persons specified in subsection (a) and in the manner specified in subsection (b) or (c), as applicable, of section 683.075 of the Texas Transportation Code. A public hearing shall be ordered at the request of the person who receives notice as provided in subsection(a) if the request is made not later than the date by which the nuisance must be abated and removed. A public hearing requested under subsection (b) shall be conducted by the chief of police or his designee. In addition, notice of said a public hearing as provided by this subsection may be published in a newspaper of general circulation throughout the city.”~~

~~(c) The public hearing upon the proposed removal of the vehicle or part of a vehicle shall be conducted by the chief of police or a person designated by the chief of police. If the neighborhood protection official or hearing officer determines that the vehicle or part of a vehicle is subject to removal hereunder he shall cause an order to be issued directing its removal. The order shall include the information specified in section 683.076~~

of the Texas Transportation Code.

Section 6. That Section 10-534(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Section 10-534. Disposal

(a) In the event ~~the public hearing results in~~ an order of disposal of the vehicle or part of the vehicle is issued under this article, then the neighborhood protection official shall cause the junked vehicle to be removed to a disposal site.

Section 7. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 8. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

August 23, 2007 (8:34am)

PASSED AND ADOPTED this ___ day of _____, 2007.

APPROVED this ___ day of _____, 2007.

Mayor of the City of Houston

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

City Secretary

Prepared by Legal Dept. _____
RDC:yc 08/20/2007 Assistant City Attorney
Requested by Houston Police Department Neighborhood Protection Corps
L.D. File No. 0620701019001

August 23, 2007 (8:34am)

City of Houston, Texas, Ordinance No. 2007-_____

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO JUNKED VEHICLE ABATEMENT PROCEDURES AND NOTICE OF HEARINGS FOR DANGEROUS BUILDINGS; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

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

Section 1. That Section 10-347 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 10-347. Notice of Hearing.

As an alternative to the process described in the preceding section 10-346 of this Code, if a premises, building, structure, or portion thereof has, upon inspection, been discovered to be in violation of this division, the neighborhood protection official may schedule a hearing concerning the violation to be held before either the commission or the hearing official. The neighborhood protection official shall serve written notice of the hearing, in the manner prescribed by § 54.035(a)(1) of the Texas Local Government Code, on all persons having an interest in the property as shown by the real property records of the county in which the property is located and all occupants thereof. The notice shall be mailed at least ten days prior to the date set for the hearing and shall inform such persons that a hearing will be held regarding the violation. Notice shall set for the specific conditions that render the premises, building, structure, or portion thereof to be in violation of the standards set forth in this division. Notice of the hearing shall also be posted on the building, or if no building, on the premises."

Section 2. That Section 10-364 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 10-364. Notice of Hearing.

If a building has, upon inspection, been discovered to be a dangerous building, then the neighborhood protection official shall serve written notice on all persons having an interest in the property as shown by the real property records of the county in which the property is located and in the

manner prescribed by § 54.035(a)(1) of the Texas Local Government Code. This notice shall inform the persons that a hearing will be held in which the city will seek an order requiring the building to be vacated and/or requiring the building to be repaired and/or demolished and/or secured upon a finding that the building is a dangerous building. The notice shall also set forth:

- (1) The specific conditions that render the building a dangerous building within the standards set forth in section 10-361 of this Code;
- (2) That a hearing will be held before a hearing official designated pursuant to this division in which the city will seek an order that the building be vacated, secured, repaired, and/or demolished as provided in section 10-366 of this Code;
- (3) The date, time and place of the hearing;
- (4) That all persons having an interest in the property may appear in person and/or be represented by an attorney and may present testimony and cross-examine all witnesses; and
- (5) That the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this division and the time it will take to reasonably perform the work.

If the address of any person having an interest in the property as shown in the deed records is unknown, or if notice to any person having an interest in the property is returned undelivered, a copy of such notice shall be posted in a conspicuous place on the property on which the building is located. The posting of such notice shall constitute notice to any person having an interest in the property who does not receive personal notice or notice by mail. In addition, the city may file notice of the hearing in the real property records of the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire an interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice."

Section 3. That Subsection (a) of Section 10-369 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) After the hearing, the city shall promptly provide, in the manner prescribed by § 214.001(g) of the Texas Local Government Code, a copy of the order to the owner of the building, and if the owner does not take the ordered action within the allotted time, the city shall promptly personally deliver, mail by certified mail, return receipt requested, or deliver by United States Postal Service using signature confirmation service a copy of the order to any lienholder or mortgagee of the building. The city shall use the real property records of the county in which the building is located to determine, if possible, the identity and address of any owner, lienholder, or mortgagee of the building. If the address of a person having an interest in the property as shown on the deed records is unknown, or if the order is returned undelivered, a copy of the order shall be posted in a conspicuous place on the building subject to the order. The posting of the order shall constitute notice to any person having an interest in the property who does not receive personal service."

Section 4. That Section 10-531 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 10-531. Definitions.

As used in this article the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning:

Antique vehicle means a passenger car or truck that is at least 25 years old.

Junked vehicle means a vehicle as defined in item (9) of section 621.001 of the Texas Transportation Code, that is self-propelled and:

- (1) Does not have lawfully attached to it:
 - a. An unexpired license plate; and
 - b. a valid motor vehicle inspection certificate; and

- (2) Is:
 - a. Wrecked, dismantled or partially dismantled, or discarded; or
 - b. Inoperable and has remained inoperable for more than:
 - [1] 72 consecutive hours, if the vehicle is on public property; or
 - [2] 30 consecutive days, if the vehicle is on private property;

provided that the term 'junked vehicle' shall not be construed to include a vehicle or vehicle part:

- (1) That is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property, or
- (2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - a. Maintained in an orderly manner;
 - b. Not a health hazard; and
 - c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Motor vehicle collector means a person who:

- (1) Owns one or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve

an antique or special interest vehicle for historic interest.

Special interest vehicle means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist."

Section 5. That Subsections (a), (b), and (c) of Section 10-553 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"(a) Upon receipt of information that a vehicle or a part of a vehicle is in such a condition and location that it may be subject to removal under this article the neighborhood protection official shall investigate the facts. In making a determination how long a vehicle or part of a vehicle has remained inoperable the neighborhood protection official conducting the investigation may rely upon a sworn statement of a person working or residing near the place where the vehicle is situated, who has personal knowledge of the facts, provided that the person is willing to allow the affidavit to be disclosed to the vehicle owners/lienholders and to appear at a public hearing, if one is requested by the vehicle owner/lienholder. In each instance in which it is proposed to remove a vehicle or part of a vehicle under this article, not less than ten days' notice of the nature of the nuisance shall be given to the persons specified in subsection (a) and in the manner specified in subsections (a), (b), and (c) as applicable, of section 683.075 of the Texas Transportation Code.

(b) A public hearing shall be ordered at the request of the person who receives notice as provided in subsection(a) if the request is made not later than the date by which the nuisance must be abated and removed. A public hearing requested under subsection (b) shall be conducted by the chief of police or his designee. In addition, notice of a public hearing as provided by this subsection may be published in a newspaper of general circulation throughout the city.

(c) If the neighborhood protection official or hearing officer determines that the vehicle or part of a vehicle is subject to removal hereunder he shall cause an order to be issued directing its removal. The order shall include the information specified in section 683.076 of the Texas Transportation Code."

Section 6. That Section 10-534(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) In the event an order of disposal of the vehicle or part of the vehicle is issued under this article, then the neighborhood protection official shall cause the junked vehicle to be removed to a disposal site."

Section 7. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 8. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this ___ day of _____, 2007.

APPROVED this ___ day of _____, 2007.

Mayor of the City of Houston

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

City Secretary

RL
Prepared by Legal Dept. *[Signature]*

RDC:yc 08/20/2007

[Signature]
Assistant City Attorney

Requested by Houston Police Department Neighborhood Protection Corps

L.D. File No. 0620701019001

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance amending Chapter 20 of the code of Ordinances, Houston, Texas relating to food and food establishments operating in the City	Category #	Page 1 of 2	Agenda Item # 11
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FROM (Department or other point of origin): Stephen L. Williams, M.Ed., M.P.A. Director-Houston Department of Health and Human Services	Origination Date 08/27/07	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: 	Council District affected: ALL
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For additional information contact: Kathy Barton Telephone: 713-794-9998 or 713-826-5801	Date and identification of prior authorizing Council action:
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RECOMMENDATION: (Summary)
Approval of an ordinance amending Chapter 20 of the code of Ordinances, Houston, Texas relating to food and food establishments in the City.

Amount of Funding: N/A	F&A Budget:
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SOURCE OF FUNDING: General Fund Grant Fund Enterprise Fund Other (Specify)

SPECIFIC EXPLANATION:
The proposed ordinance amends Section 20 of the Houston Code of Ordinances relating to food and food establishments. The majority of the amendments are proposed in order to maintain compliance with the Texas Food Establishment Rules, which are the rules that govern retail food facilities in the State of Texas and are amended periodically. The additional amendments are for the purpose of enhancing the Food Code regulations. The significant amendments to Chapter 20 are as follows:

Exhibit A

- Section 20-3 is amended by clarifying that this chapter is enforceable by a health officer;
- Section 20-17 is amended by clarifying the requirements for TFER compliance;
- Section 20-18 is amended to add definitions of terms used in this section;
- Section 20-19 is amended by outlining the process for receiving a variance;
- Section 20-20 is amended to amplify re-inspections guidelines by a health officer to food establishments;
- Section 20-21.1 is amended to enforce compliance with TFER for obtaining food supplies not containing unapproved additives;
- Sections 20-21.2 and 20-21.3 are amended to provide enhanced protection for storage of food;
- Section 20-21.4 is amended to enhance food preparation guidelines to prevent cross contamination;
- Section 20-21.5 is amended to improve display and food service operations to prevent cross contamination;
- Section 20-21.7 is amended to enhance the reporting requirement of a sick employee to a health officer;
- Section 20-21.8 is amended to increase the personal cleanliness of food establishment's employees;
- Section 20-21.9 is amended to add the prohibition of animal handling and care by food establishment employees;
- Section 20-21.10 is amended to provide enhanced sanitation regulations regarding equipment components such as doors, seals, hinges, fasteners and kick plates adjusted to manufacturer's specifications.
- Sections 20-21.11 through 20-21.14 are amended by providing enhanced sanitation regulations regarding cleaning of food preparation utensils as well as proper storage after usage;
- Sections 20-21.15, .17, .18, .19 and .20 are amended by providing enhanced sanitation regulations regarding water system, plumbing system for backflow prevention, toilet rooms, hand washing sinks, garbage and refuse storage facilities;
- Section 20-21.21 is amended to enhance the effective measures intended to minimize the presence of rodents, and other insects on food premises by routinely inspecting for pests presence;

REQUIRED AUTHORIZATION

F&A Director	Other Authorization:	Other Authorization:
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Date
08/27/07

Subject: Ordinance approving amending Chapter 20 of the code of Ordinances, Houston, Texas relating to food and food establishments operating in the City

Originator's
Initials

Page
2 of 2

- Section 20-21.22 is amended to add an exception to the prohibition of certain types of floor coverings;
- Sections 20-21.23 through 20-21.25 are amended by providing enhanced sanitation regulation for proper maintenance of walls, ceilings, lighting and ventilation systems;
- Sections 20-21.27 and 20-21.28 are amended by providing enhanced regulations for storage of poisonous or toxic materials and maintenance of premises, including the prohibition of live animals on the premises of a food establishment;
- Section 20-23 is amended to provide enhanced sanitation regulations on equipment, water system, wet storage, walls, ceilings and food preparation for temporary food service establishments;
- Section 20-24 is amended clarifying the procedure to follow when there is reasonable cause to believe that a food employee is infected with a transmittable disease;
- Section 20-25 is amended by enhancing the requirements pertaining to the construction and remodeling of food establishments;
- Section 20-36 is amended by adjusting the food permit requirements;
- Section 20-38 is amended by:
 - adding a technology and administrative fee of \$10 to each food dealer's permit and mobile food unit medallion fee;
 - increasing the medallion fee to \$300 from \$200; however, the MFU operator is no longer required to also obtain a food dealer's permit for \$200; increasing the fee to replace a permit or medallion to \$25 from \$10; and
 - providing for a \$200 electronic monitoring system fee.
- Sections 20-41 and 20-42 pertaining to the suspension and revocation of a food dealer's permit or mobile food unit medallion are amended to provide for the suspension or revocation of a food dealer's permit for violations under the smoking ordinance; Section 20-42 is also amended by specifying that a permit or medallion may be revoked for up to 180 days.
- Section 20-54 is amended by clarifying the training requirements for a renewal of a food service manager's certification;
- Section 20-57 is amended by increasing the food service manager's certification fee to \$45 from \$30, adding a \$10 technology fee and increasing the replacement card fee to \$25 from \$10.
- Section 20-63 is amended by extending the renewal period for food service manager certificate to 5 years from 3 years for consistency with the state's requirements, and increasing the application fee to \$25 from \$10 plus the \$10 technology fee.

Deleted Articles (as noted in the ordinance)

- Articles III (Meat and Poultry Wholesalers and Cold Storage Facilities) and IV (Seafood Dealers) are being deleted due to lack of need to specifically regulate these areas.

Exhibit B

- Section 20-200 is amended to provide definitions of terms used in this section; and
- Section 20-209 is amended to require proper overhead protection to vending machines located outdoors.
- Additionally, as noted in the ordinance, Sections 20-176 (Farm produce sales license) and 20-193 (certified farmers market license) are amended by increasing the license replacement fees to \$25 from \$10.

City of Houston, Texas, Ordinance No. 2007-_____

AN ORDINANCE AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO FOOD AND FOOD ESTABLISHMENTS; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

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

Section 1. That Sections 20-2 and 20-3 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"Sec. 20-2. Condemnation and disposition of contaminated food.

The health officer is authorized and directed to take action as may be reasonably necessary to protect the public health, safety and welfare by condemning or initiating the condemnation of any food or drug product or item of food equipment that may be used or held with intent to sell, offer or expose for sale within the city that is suspected to be unsafe, adulterated, misbranded or expired pursuant to applicable ordinances or state or federal laws, rules and regulations. Expiration of ready-to-eat potentially hazardous food items that are required to be time and date marked as provided under section 20-21.3(b)(10) of this Code shall be determined from the markings. Food that is not from an approved source as specified under section 20-21.1 of this Code shall be discarded. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under section 20-21.7 and section 20-24 of this Code shall be discarded. Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded. Pending disposition, the health officer may direct that the product or item not be used or sold by causing the same to be appropriately tagged if he finds upon diligent inquiry and inspection that the product or item poses an immediate threat of danger to the health, safety and welfare of the public and if the owner or person in possession thereof is afforded the right of a public hearing thereon within 24 hours, exclusive of Saturdays, Sundays and holidays observed by the closure of city offices, before the director of public health or his designee. The health officer may utilize the resources of all available state, county or federal offices and agencies as necessary or desirable in the prosecution of condemnation actions hereunder.

Sec. 20-3. State and federal laws, regulations.

In addition to the enforcement of this chapter, the health officer may enforce the provisions of applicable state or federal laws, rules or regulations to the extent that he has been so authorized or is permitted by law to do so, and he shall refer those matters involving state or federal laws, rules or regulations that he is not authorized to enforce to the state or federal office or agency having jurisdiction. The health officer may promulgate rules, regulations and forms in administering this chapter."

Section 2. That Article II of Chapter 20 of the Code of Ordinances, Houston, Texas, is hereby amended to read as set forth in **Exhibit A**, which is attached hereto and incorporated herein, with the exception of Section 20-22, which is being addressed separately.

Section 3. That Chapter 20 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting Articles III and IV and renumbering the remaining Articles accordingly.

Section 4. That Subsection (b) of Section 20-176 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(b) Replacement. A license holder who has lost his current, valid license may obtain a replacement license from the health officer for a fee of ~~\$10.00~~\$25.00."

Section 5. That Subsection (b) of Section 20-193 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(b) Replacement fee. A license holder who has lost his valid, current certified farmers market license may obtain a replacement from the health officer for a fee of ~~\$10.00~~\$25.00."

Section 6. That newly renumbered Article IV of Chapter 20 of the Code of Ordinances, Houston, Texas, is hereby amended to read as set forth in **Exhibit B**, which is attached hereto and incorporated herein.

Section 7. That the Code text portions of Sections 1, 4, and 5 and **Exhibits A** and **B** have been prepared in legislative format for the convenience of the reader in determining additions to and deletions from Chapter 20 of the Code of Ordinances. Those portions that have been stricken in the following manner (~~stricken~~) represent prior City Code text that has been deleted. They do not constitute a part of Article II of Chapter 20 of the Code of Ordinances, as amended, and are provided only for the convenience of the reader in determining portions of the prior text that have been intentionally deleted. Similarly, the provisions that have been underlined in the following manner (underlined) have been so underlined to illustrate their addition to Chapter 20 of the Code of Ordinances. While the underlined portions of the text constitute an actual portion of the City Code as amended, the underlining itself does not constitute a part of the City Code and was placed for the convenience of the reader.

Section 8. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or

fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 9. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on the sixtieth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this ___ day of _____, 2007.

Mayor of the City of Houston

Prepared by Legal Dept.

MNA:asw 08/23/2007

Requested by Stephen L. Williams, Director, Health and Human Services Department

L.D. File No. 0380700070002

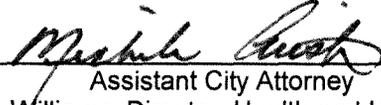

Assistant City Attorney



EXHIBIT A

Chapter 20 Redline

ARTICLE II. FOOD ESTABLISHMENTS GENERALLY

DIVISION 1. GENERALLY

Sec. 20-17. TFER compliance.

All provisions of this article are to be read and construed in a manner that is consistent with TFER. ~~However, to the extent of any inconsistency between the requirements of this article and TFER, then the more restrictive requirement shall apply~~ Any inconsistency between the requirements of this article and TFER shall be resolved in favor of the more restrictive requirement.

Sec. 20-18. Definitions.

When used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

Additive shall mean a food additive or a color additive, both as defined in this section.

Approved shall mean acceptable to the health officer based on his determination as to conformance with appropriate standards of good public health practice. The approval shall be in writing and signed by the health officer or his authorized representative.

Bed and breakfast shall mean a bed and breakfast facility that has eight or more separately rentable guest units, or that, regardless of its number of separately rentable guest units, either serves any meal other than breakfast to its registered overnight guests or provides breakfast or any other food or food service to persons who are not its registered overnight guests.

Bed and breakfast limited shall mean a bed and breakfast facility that has seven or fewer separately rentable guest units and serves only breakfast and only to its registered overnight guests.

Beverage shall mean a liquid for drinking, including water.

Casing shall mean a tubular container for sausage products made of either natural or artificial (synthetic) material.

Catering establishment shall mean a food service establishment where food is completely or partially prepared for delivery at a separate location where it is meant to be served and consumed. For purposes of this definition and the definition of *mobile food unit* below, a food service establishment is considered to be operating mobile food units, rather than to be operating as a catering establishment, unless at each premises or property to which food is delivered the food is provided to one person for consumption by that person or that person's guests or invitees.

Certification number shall mean a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

Cleaned in place (CIP) shall mean cleaned by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine, except that CIP does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a piping system.

Closed shall mean without openings large enough for the entrance of insects or other vermin.

Cold storage shall mean the storing and preservation of food products by cold through means of mechanical or electrical refrigeration.

Color additive shall mean any material that imparts color to a food as stated in the Health and Safety Code, Chapter 431, § 431.002(6).

Comingle shall mean to combine shellstock harvested on different days or from different growing areas as indicated on the tag or label, or to combine shucked shellfish from containers with different codes or different shucking dates.

Comminuted shall mean reduced in size by methods including chopping, flaking, grinding or mincing. The term includes fish or meat products that are reduced in size and restructured or reformulated, such as gefilte fish, gyros, ground beef, sausage or any mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

Commissary shall mean any kitchen food establishment where food is prepared and packaged for individual consumption, to be transported by the person preparing the food or his agent to another location off the premises.

Common dining area shall mean a central location in a group residence where people gather to eat at mealtime. The term does not apply to a kitchenette or dining area located within a resident's private living quarters.

Community-based organization shall mean a not-for-profit organization that has as its primary purpose the promotion of civic interests among residents of a geographic area of the city, including, but not limited to, a civic club, a neighborhood association or a homeowners association.

Confirmed disease outbreak shall mean a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a food as a causative agent and epidemiological analysis implicates the food as the source of the illness.

Consumer shall mean a person who is a member of the public who takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer food for resale.

Corrosion-resistant shall refer to ~~mean these~~ the characteristic of a materials that allows it to maintains their original acceptable surface cleanliness characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and ~~bactericidal~~ sanitizing solutions, and other conditions of the use environment.

Critical control point shall mean a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

Critical item shall mean a provision of this article that, if not complied with, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

Critical limit shall mean the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

Demonstrates knowledge shall mean that the person in charge of a food establishment is certified under division 3 of this article or, if not required to be certified, demonstrates based on the risks of foodborne illness inherent to the food operation, during inspection and upon request, the person in charge demonstrates or exhibits to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles and the requirements of this article as specified in section 20-20(b) of this Code by, upon request of the health officer:

- (1) Complying with article II of this chapter by having no critical violations during the current inspection.
- (2) Having a certification card under division 3 of this article.
- (3) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:
 - (1)a. Describing ~~t~~he relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
 - (2)b. Explaining ~~t~~he responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;
 - (3)c. Describing ~~t~~he symptoms associated with the diseases that are transmissible through food;
 - (4)d. Explaining ~~t~~he significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;
 - (5)e. Explaining ~~t~~he hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
 - (6)f. Stating ~~t~~he required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;
 - (7)g. Stating ~~t~~he required temperatures and times for safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;
 - (8)h. Describing ~~t~~he relationship between the prevention of foodborne illness and the management and control of cross-contamination, bare hand contact with ready-to-eat foods, hand-washing, and maintaining the food establishment in clean condition and in good repair;

- (9) ~~i.~~ ~~Explaining~~ ~~t~~The relationship between food safety and providing equipment that is sufficient in number and capacity; and properly designed, constructed, located, installed, operated, maintained and cleaned;
- (10) ~~j.~~ ~~Explaining~~ ~~e~~Correct procedures for cleaning and sanitizing utensils and other food-contact surfaces of equipment;
- (11) ~~k.~~ ~~Identifying~~ Identification of the source of water used and measures taken to ensure that it remains protected from contamination, such as protection from backflow, and precluding the creation of cross connections;
- (12) ~~l.~~ ~~Identifying~~ Identification of poisonous and toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of in accordance with all applicable laws;
- (13) ~~m.~~ ~~Identifying~~ Critical control points in the operation, from ~~purchasing~~ purchase through sale or ~~service~~, that when not controlled may contribute to the transmission of foodborne illness, and steps taken to ensure that the points are controlled in accordance with the requirements of this article;
- (14) ~~n.~~ ~~Explaining~~ ~~t~~The details of how the person in charge and food employees comply with the HACCP plan if a plan is required by this article; and
- (15) ~~o.~~ ~~Explaining~~ ~~t~~The responsibilities, rights, and authorities assigned by this article to the food employee, the person in charge and the health officer.

Department shall mean the health and human services department.

Disclosure shall mean a written statement that clearly identifies the animal-derived foods that are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens in their entirety, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

Dry storage area shall mean a room or area designated for the storage of packaged food that is not potentially hazardous and dry goods such as single-service and single-use articles.

Easily cleanable shall mean a characteristic of a surface that:

- (1) Allows effective removal of soil by normal cleaning methods;
- (2) Is dependent on the material, design, construction, and installation of the surface;
and
- (3) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into the food based on the surface's approved placement, purpose, and use.

~~that surfaces are readily accessible and made with materials and finishes and so fabricated that residue may be effectively removed by normal cleaning methods. Easily cleanable includes a~~

tiered application of the criteria that qualify the surface as easily cleanable as specified above to different situations in which varying degrees of cleanability are required, such as the appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or the need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

Egg shall mean the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

~~Employee shall mean any individual having supervisory or management duties and any other person working in a food establishment, including food employees. the permit holder, person in charge, person having the supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.~~

EPA shall mean the U.S. Environmental Protection Agency.

Equipment or food equipment shall mean an article used in the operation of a food establishment such as a freezer, grinder, ice maker, scale, temperature measuring device for ambient air, vending machine, stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and or any similar items, other than utensils, used in the operation of a food establishment. Equipment does not include any items used for handling or storing large quantities of packaged foods that are from a supplier in a cased or overwrapped lot, such as a hand trucks, forklifts, dollies, pallets, racks, or skids.

Exotic animal shall mean a member of a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant animals. Exotic animals are considered livestock and are amenable to inspection under chapter 433 of the Texas Health and Safety Code.

Exclude shall mean to prevent a person from working as a food employee or entering a food establishment except for those areas open to the general public.

Extensively remodeled shall mean having been subjected to a remodeling that includes a wall reconfiguration, in-wall plumbing modification or change of location or addition of any floor mounted equipment.

FDA shall mean the U.S. Food and Drug Administration.

Filth shall mean dust, dirt, insect excretions or secretions, insect body parts, rodent hairs or excretions, feathers, or any foreign or injurious contamination.

Fish shall mean fresh or saltwater finfish, molluscan shellfish, crustaceans and other forms of aquatic animal life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals and all mollusks, if such animal life is intended for human consumption, including any edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

Food shall mean any raw, cooked, or processed edible substance, ice, non-alcoholic beverage or ingredient used or intended for use or for sale in whole or in part for human consumption, including chewing gum.

Food additive shall mean a substance that affects the characteristics of any food as specified in the Health and Safety Code, Chapter 431, §431.002(17)

Foodborne disease or illness outbreak shall mean the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food. ~~an incident in which two or more persons experience a similar illness after ingestion of a common food, and the epidemiological analysis implicates the food as the source of the illness, except that in cases of botulism or chemical poisoning one ill person shall constitute an outbreak.~~

Food-contact surface shall mean those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back into a food or onto surfaces normally in contact with food.

Food employee shall mean an individual who works with unpackaged food, food-contact surfaces, food equipment or utensils.

Food establishment shall mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption and includes all food service establishments, warehouses, packaged-food-only food establishments, ~~and food processing establishments, and commissaries.~~

Food preparation area or kitchen shall mean each physically separated area of a food establishment in which food is manufactured, produced, prepared, processed or packaged. In the instance of mobile food units, each mobile food unit that does not meet the criteria for restricted operations established in section 20-22(e) of this Code shall constitute a food preparation area or kitchen.

Food processing establishment shall mean a commercial establishment in which food is manufactured or packaged for human consumption. The term 'food processing establishment' does not include a food service establishment or commissary operation.

Food service establishment shall mean any place where food is prepared and intended for individual portion service or any site at which individual portions of food are provided, including any retail food store, catering establishment, commissary, delicatessen-type operation that prepares sandwiches intended for individual portions, group residence, bed and breakfast, or any operation that is conducted from a mobile food unit. The term applies regardless of whether the food is intended to be consumed on or off the premises and regardless of whether there is a charge for the food. The term does not include any private homes where food is prepared or served for individual family consumption, ~~the location of premises where a~~ food vending machines is located, supply vehicles, or, except for purposes of division 3 of this article, a bed and breakfast limited.

Food service manager shall mean that person assigned to work within a food preparation area who is the apparent supervisor of food manufacturing, production, preparation, processing or packing activities therein at the time. A food service manager may also be the 'person in charge' as defined in this section, if he additionally meets all the criteria established in the definition of 'person in charge.'

Frozen dessert shall mean any of the following: ice cream, ice milk, fruit sherbet, water ice, nonfruit sherbet, nonfruit water ice, frozen dietary dairy desserts, frozen yogurt quiescently frozen confection, quiescently frozen dairy confection, mellorine, lorine, parerune, freezer-made milk shake, freezer-made shake, or nondairy frozen dessert, including the mix used in the freezing of any one of the listed ~~these~~ frozen desserts.

Game animal shall mean an animal, the products of which are food, that is not classified as livestock or fish as defined herein and shall include mammals such as reindeer, elk, deer, antelope, water buffalo, bison, ~~wild-rabbit~~, squirrel, opossum, raccoon, nutria or muskrat, and nonaquatic reptiles such as land snakes. 'Game animal' does not include ratites such as ostrich, emu, and rhea.

Garbage shall mean every accumulation of animal, vegetable and other waste matter that attends the preparation, handling, consumption, storage, or decay of plant and animal matter, including meats, fish, seafood, birds, fruit, vegetables and dairy products, and the waste wrappers or containers thereof.

General use pesticide shall mean a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

Grade A standards shall mean the requirements of the United States Public Health Service/FDA 'Grade A Pasteurized Milk Ordinance' with which certain fluid and dry milk products are required to comply.

Group residence shall mean a private or public housing corporation or institutional facility that provides living quarters and meals to ten or more persons who are unrelated by blood or marriage and shall include a domicile for unrelated persons, such as a retirement home, a correctional facility, or a long-term health care facility.

Hazard shall mean a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

~~*Hazard Analysis Critical Control Point (HACCP)* shall mean a rational, systematic approach to the identification, evaluation, and control of food safety hazards. The system that identifies and monitors specific food borne hazards (biological, chemical, or physical) that may adversely affect the safety of the food products. This system utilizes the HACCP principle as defined by the National Advisory Committee on Microbiological Criteria for Foods (NACMCF), 1992, or its successor document.~~

HACCP plan shall mean a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

Hermetically-sealed container shall mean a container designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its content after processing.

Highly susceptible population shall mean any group of persons who are more likely than the other populations in general to experience ~~food borne~~ foodborne disease because they are:

- (1) ~~Immunocompromised; preschool age children, or older adults; and or older adults and in a facility that provides health care or assisted living services, such as a hospital, a group residence or a nursing home; or~~
- (2) Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center. Preschool age children in a facility that provides custodial care, such as a day care center.

Injected, in reference to a meat, shall mean the meat has been manipulated so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or ~~injecting the meat, such as by processes with juices, which may be referred to as 'injecting,' 'pinning,' or 'stitch pumping'.~~

Juice, when used in the context of food safety, shall mean the aqueous liquid expressed or extracted from one or more fruits or vegetables, a purée of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid purée. 'Juice' includes juice as a whole beverage or an ingredient of a beverage and a purée as an ingredient of a beverage.

Kitchenware shall mean all multi-use utensils other than tableware.

Law shall mean all applicable federal, state and local statutes, ordinances and regulations.

Linens shall mean fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths and work garments, including cloth gloves.

Livestock shall mean cattle, sheep, swine, goats, horses, mules, other equine, poultry, domesticated rabbits, exotic animals, and domesticated birds. Livestock are amenable to inspection under chapter 433 of the Texas Health and Safety Code.

Mg/L shall mean milligrams per liter, which is the metric equivalent of parts per million (ppm).

Meat shall mean the flesh of animals used as food, including the dressed flesh of cattle, swine, sheep or goats, and other edible animals, except fish, poultry, exotic animals and game animals, that is offered for human consumption.

Minor shall mean an individual under the age of 18.

Mobile food unit shall mean a food service establishment that is vehicle-mounted or wheeled and is capable of being readily moveable.

Molluscan shellfish shall mean any edible species of fresh or frozen oysters, clams, mussels, and scallops, or edible portions thereof, except scallops when the scallop product consists only of the shucked adductor muscle.

Non-potentially hazardous beverage shall mean a non-alcoholic liquid intended for consumption, whether natural or synthetic, that does not require temperature control because it is not capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum*. The term includes:

- (1) Tea and coffee, excluding espresso, with powdered creamer or ultra-high, pasteurized half and half in individual servings;
- (2) Commercially made, high acid beverages with a pH level of 4.6 or below, such as, apple juice, lemonade, limeade, and orange juice;
- (3) Fresh-squeezed, high acid beverages prepared according to department guidelines;
- (4) Commercially filled carbonated beverages;

(5) High acid beverages made from a commercial mix; and

(6) Mineral water sold in open, single-service cups with ice from an approved source.

Packaged shall mean bottled, canned, cartoned, securely bagged, or securely wrapped whether packaged in a food establishment or a food processing plant. 'Packaged' ~~but~~ does not ~~include~~ refer to food in a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

Packaged-food-only food establishment shall mean any food establishment where all food is received, kept, stored, and sold or distributed in unbroken sealed packages, except that beverages that are not potentially hazardous may ~~also~~ be dispensed from covered urns or other protected equipment.

Perishable food shall mean any food of a type or in a condition as may spoil.

Personal care items shall mean items or substances that are used to maintain or enhance a person's health, hygiene, or appearance, but may be poisonous, toxic, or a source of contamination. 'Personal care items' include items such as medicines, first aid supplies, cosmetics, and toiletries such as toothpaste and mouthwash.

Person in charge shall mean the individual present in a food establishment who is the apparent supervisor of the food establishment at the time.

pH shall mean the negative logarithm of the hydrogen ion concentration. pH is a measure of the degree of acidity or alkalinity of a solution. The value for pure distilled water is 7.0, which is considered neutral. Values between 0 and 7.0 indicate acidity and values between 7.0 and 14.0 indicate alkalinity.

Potable water shall mean water from an approved source that has been determined by the health officer after appropriate testing as suitable for human consumption. The term does not include 'boiler water', 'mop water', 'rainwater', 'wastewater', or 'nondrinking water.'

Potentially hazardous food (PHF) shall mean: ~~(a) Aa food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production, food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or, in raw shell eggs, the growth of *Salmonella enteritidis*.~~

(b)(1) The term includes food of animal origin, including fresh shell eggs, that is raw or heat-treated; food of plant origin that is heat-treated or consists of raw seed sprouts; any cut melons; and any garlic-and-oil mixtures that are not acidified or otherwise modified at a food processing plant modified in a way that results in mixtures that do not support growth of pathogens or toxins, as specified under subparagraph (A) of this paragraph in the introductory paragraph of this definition; and food whose pH/a_w interaction is designated as PHF/TCS in one of the tables listed in Tables 20-18-A or 20-18-B below, unless a product assessment or vendor documentation acceptable to the regulatory authority is provided.

(c)(2) The term does not include:

- (1) a. An air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable Salmonellae;
- b.(2) Any food with a water activity (A_w) value of 0.85 or less; whose pH/ a_w interaction is designed as non-PHF/non-TCS in Tables 20-18-A and 20-18-B in subparagraph (D) below;
- (3) Any food with a pH level of 4.6 or below when measured at 75°F (24°C);
- c.(3) Any food, in an unopened hermetically-sealed container, that is commercially-processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
- d.(4) Any food for which a product assessment, including laboratory evidence demonstrates that the time and temperature control for safety is not required rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. enteritidis* in eggs or *C. botulinum* cannot occur, such as a food that has an A_w and a pH that are above the levels specified above and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; and
- e.(5) Any food that does not support the growth of microorganisms as specified in the introductory paragraph of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified in this definition. Potentially hazardous food does not include food that, because of pH, water activity (a_w) or the interaction of pH and a_w , is considered non-PHF/non-TCS in Table 20-18-A or 20-18-B of this Code. Guidance for using the tables is provided in the document entitled "Using pH, a_w , or the interaction of pH and a_w to Determine If a Food Requires Time/Temperature Control for Safety (TCS)". Copies of the guidance document may be obtained from the department.

Table 20-18-A. Control of spores: Product heat-treated to control vegetative cells and subsequently PACKAGED

Critical a_w Values	Critical pH values		
	4.6 or less	> 4.6 – 5.6	> 5.6
0.92 or less	non-PHF/non-TCS	non-PHF/non-TCS	non-PHF/non-TCS
> 0.92 – 0.95	non-PHF/non-TCS	non-PHF/non-TCS	PHF/TCS
> 0.95	non-PHF/non-TCS	PHF/TCS	PHF/TCS

PHF/TCS means further product assessment is necessary to determine if the food is non-PHF/non-TCS.

Table 20-18-B. Control of vegetative cells and spores: Product not heat-treated or heat-treated but NOT PACKAGED.

Critical a_w Values	Critical pH values			
	< 4.2	4.2 - 4.6	4.6 - 5.0	> 5.0
< 0.88	non-PHF/non-TCS	non-PHF/non-TCS	Non-PHF/non-TCS	Non-PHF/non-TCS
0.88 – 0.90	non-PHF/non-TCS	non-PHF/non-TCS	Non-PHF/non-TCS	PHF/TCS
> 0.90 – 0.92	non-PHF/non-TCS	non-PHF/non-TCS	PHF/TCS	PHF/TCS
> 0.92	non-PHF/non-TCS	PHF/TCS	PHF/TCS	PHF/TCS

PHF/TCS means further product assessment is necessary to determine if the food is non-PHF/non-TCS.

Poultry shall mean any domesticated bird (chicken, turkey, duck, goose, or guinea), whether live or dead, as defined in chapter 433 of the Texas Health and Safety Code, migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or guinea, pigeon or squab. ~~Chickens, turkeys, ducks, geese, guineas, migratory waterfowl, game birds or squabs such as pheasants, partridges, quail, and grouse, are examples of poultry. The term Poultry does not include ratites, also includes ratites (e.g. ostrich, emu, and rhea) that are amenable to inspection as poultry.~~

Premises shall mean the physical facility, its contents, and the contiguous land or property under the control of the permit holder. If a food establishment is only one component of a larger operation, such as a health care facility, hotel, motel, school, recreational camp, prison or shopping mall, then the term 'premises' includes the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may affect the sanitation and food safety of the food establishment. For the purpose of placement of a fixed location mobile food unit, 'premises' shall, in addition, include the shared common interior and exterior areas of retail shopping malls and similar facilities, where applicable.

Primal cut shall mean a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

Produce shall mean and include all vegetables, fruits, nuts, berries, melons, cantaloupes and other edible plant material.

Ratite shall mean a flightless bird such as an emu, ostrich, or rhea.

Ready-to-eat food shall mean:

- (1) Food in a form that is edible without washing, cooking or additional preparation by the food establishment or the consumer and that is reasonably expected to be in that form;
- (2) Food in a form that is edible without additional preparation to achieve food safety, as specified under sections 20-21.4(c)(1) and 20-21.4(c)(3) of this Code, section 20-21.4(c)(2) of this Code, or sections 20-21.1(b)(8) and 20-21.3(b)(8) of this Code;
- (3) Raw or partially cooked animal food and the consumer is advised as specified under section 20-21.4(c)(4) through (8) of this Code;
- (4) Food prepared in accordance with a variance that is granted as specified under sections 20-21.4(c)(4)(b) and 20-21.4(c)(8) of this Code; and that may receive additional preparation for palatability or aesthetic epicurean, gastronomic, or culinary purposes;
- (5) Unpackaged potentially hazardous food that is cooked to the temperature and time required for the specific food under section 20-21.4 of this Code and cooled as specified under section 20-21.3(b) of this Code;
- (6) Raw, washed, cut fruits and vegetables; whole, raw, fruits and vegetables that are presented for consumption without the need for further washing;
- (7) Food presented for consumption for which further washing or cooking is not required and from which rind, peels, husks, or shells have been removed;

- (8) Substances derived from plants such as spices, seasonings, and sugar;
- (9) Bakery items such as bread, cake, pie, filling, or icing for which further cooking is not required for food safety;
- (10) Products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens, such as dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and
- (11) Foods manufactured according to 21 CFR 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

Reconstituted shall mean ~~recombining~~ dehydrated food products that have been combined with water or other liquids.

Reduced oxygen packaging.

- (1) Reduced oxygen packaging shall mean:
 - a. Packaging in which the amount of oxygen has been reduced by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding, 21% oxygen atmosphere; and
 - b. Packaging as specified in subitem a of item (1) of this subsection that involves a food for which *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form.
- (2) Reduced oxygen packaging shall include:
 - a. Vacuum packaging, in which air is removed from a package and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide;
 - b. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from the air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and
 - c. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

Refuse shall mean all putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish and ashes that are not carried by water through the sewage system.

Regulatory authority shall mean the local, state, or federal enforcement body, or authorized representative, having jurisdiction over the food establishment.

Reminder shall mean a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

Restrict shall mean to limit the activities of a food employee so that the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles, thereby reducing the risk of transmitting a disease that is transmissible through food.

Restricted bar shall mean a food service establishment in which only beverages and individually portioned packaged food items are sold, provided that the beverages and food items are received, kept, and offered for sale in the manufacturer's sealed container and are served for consumption from that container, except that beverages that are not potentially hazardous may also be dispensed from covered urns or other protected equipment.

Restricted egg shall mean any shell egg to which any of the following terms apply, as defined in 9 CFR 590: check, dirty egg, incubator reject, inedible, leaker, or loss.

Restricted use pesticide shall mean a pesticide product that contains the active ingredients specified in 40 CFR 152.175, entitled 'Pesticides classified for restricted use.'

Restricted warehouse shall mean any 'warehouse' as defined below in which no food or food products are received, kept, or distributed in other than the manufacturer's unbroken sealed packages.

Retail food store shall mean any establishment where food and food products are offered for sale to the ultimate consumer and intended for off-premise consumption; provided, however, the term shall not include an establishment where food is primarily prepared and sold for individual portion service.

Risk shall mean the likelihood that an adverse health effect will occur within a population as a result of a hazard in the food.

Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, waste metal, tin cans, yard clippings, wood, glass, crockery, plastics and similar materials.

Safe materials shall mean articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; additives that ~~is~~ are used as specified in Chapter 431 of Texas Health and Safety Code; or other materials that are not additives and that are used in conformity with applicable regulations of the federal Food and Drug Administration.

Sanitization shall mean the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance ~~for enough time to reduce microbiological load, including pathogens, to a safe level without leaving a harmful residue.~~

Sealed shall mean free of cracks or other openings that permit the entry or passage of moisture.

Service animal shall mean an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

Sewage shall mean liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

Shellfish control authority shall mean a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

Shellstock shall mean raw, in-shell molluscan shellfish.

Shiga toxin-producing Escherichia coli shall mean any E. coli capable of producing Shiga toxins (also called verocytotoxins or 'Shiga-like' toxins). This includes, but is not limited to, E. coli reported as serotype O157:H7, O157:NM, and O157:H-

Shucked shellfish shall mean molluscan shellfish that have one or both shells removed.

Single-service articles shall mean cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, placemats, bags, wrapping materials, toothpicks, single-use gloves, and similar articles designed to be used one time by one person and then to be discarded.

Single-use articles shall mean utensils and bulk food containers designed and constructed to be used once and discarded. The term includes items such as was paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles and number 10 cans that do not meet the materials, durability, strength and cleanability specifications for multi-use utensils found in section 20-21.10 of this Code.

Slacking shall mean the process of moderating the temperature of a food, such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food.

Smooth shall refer to a quality of a food contact surface as having a surface free of pits and inclusions, with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel; of a nonfood-contact surface of equipment as having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and of a floor, wall, or ceiling as having an even or level surface with no roughness or projections that render it difficult to clean.

TCS shall mean time and temperature control for safety.

Tableware shall mean multi-use eating, ~~and~~ drinking, ~~and~~ serving utensils for table use including but not limited to dishes, cups, (plates, ~~and~~ bowls), serving dishes, glasses and flatware (knives, forks and spoons).

Temperature measuring device shall mean a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

Temporary food service establishment shall mean any food-service establishment that operates at a fixed location for a period of time of not more than 21 consecutive days in conjunction with a single event or celebration. Each physically separated stand or booth shall constitute a temporary food service establishment that requires a separate permit under this article. Provided, however, in any instance in which all operations within a stand or booth are not under the supervision and control of the same person, then a separate permit shall be required for each person who controls any portion of the activities within the stand or booth. For the purpose of this definition, an 'event' or 'celebration' shall mean a gathering of persons at a festival, bazaar, carnival, circus, public exhibition or sporting event.

TFER shall mean the Texas Food Establishment Rules promulgated by the Texas Department of Health.

Utensil shall mean any multi-use or single-service food-contact implement or container used in the storage, preparation, transportation, dispensing, sales or service of food, such as kitchenware or tableware that is multi-use, single-service or single-use; including gloves used in contact with food; and temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

Variance shall mean a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this article if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

Water activity shall mean a measurement of the free moisture in a food, which is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and shall be indicated by the symbol a_w .

Warehouse shall mean any enclosed structure, room, or building where packaged food or food products intended for off-premise consumption are stored for, sold to, or offered for sale or distribution to persons other than the ultimate consumer.

Whole-muscle, intact beef shall mean whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

Sec. 20-19. Applicability of article; compliance; penalty for violation; variances, etc.

(a) All provisions of this article shall be applicable to all food establishments unless specifically limited to food processing establishments or to food service establishments.

(b) No food service establishment or food processing establishment shall be operated within the city unless it conforms with the requirements of this article.

(c) Any person who violates any provision of this article, or rule or regulation promulgated by the health officer, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$2,000.00. Each day a violation of this article continues shall constitute a separate offense.

Provided, however, if a person is convicted of an offense under this article that also constitutes a violation of any other criminal provision of the laws of the State of Texas, the person shall be subject to the criminal penalties set out in the laws of Texas for the offense.

Nothing in this article shall be construed as requiring the health officer to report minor violations of this article for prosecution whenever the health officer believes the public interest will be adequately served in the circumstances by a warning.

(d) The permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation. A permit holder or medallion holder shall ensure that the food establishment or mobile food unit is in full compliance with this article at all times, as well as with the conditions of a variance granted under subsection (e)(2) of this section If a food establishment is required under subsection (f)(1) of this section to operate under a HACCP plan, the permit holder or medallion holder shall ensure that the food establishment or mobile food unit is in full compliance with the plan as specified under subsection (e)(2) of this section. The person in charge shall ensure that the food establishment is operated in full compliance with this article, that all food is stored, prepared, displayed and served in accordance with the provisions of this article, and that food employees are trained in basic food safety principles.

(e) Variances shall include modifications and waivers, as specified below.

(1) The health officer may grant a variance by modifying or waiving any of the requirements of this article if in the opinion of the health officer a health hazard or nuisance will not result from the variance. If a variance is granted, the health officer shall retain the documentation specified in this paragraph in the department records for the food establishment. Before a variance from a requirement of this article is approved, the following information shall be provided by the person requesting the variance and retained in the department records for the food establishment:

a. A statement of the proposed variance of the article requirement, citing relevant section numbers;

b. An analysis of the rationale for how the potential public health hazard and nuisances addressed by the relevant sections will be alternatively addressed by the proposal; and

c. A HACCP plan as specified in section 20-19(f)(1)(a) of this Code, if required, that includes the information specified in section 20-19(f)(2)(d) and (e) of this Code, as it is relevant to the variance requested.

(2) Variances shall comply with approved procedures. If the health officer grants a variance as specified in item (1) of this subsection, or if a HACCP plan is otherwise required as specified in section 20-19(f)(1)(a) of this Code, the food establishment shall comply with the HACCP plan and procedures that are submitted as specified in section 20-19(f)(2) of this Code and approved as a basis for the modification or waiver and shall maintain and provide to the health officer upon request the records specified in section 20-19(f)(2)(d) and (e) of this Code that demonstrate that the following are routinely employed:

a. Procedures for monitoring critical control points;

b. Monitoring of the critical control points;

c. Verification of the effectiveness of an operation or process

d. Necessary corrective actions if there is a failure at a critical control point.

- (3) The health officer shall grant a variance from section 20-21.4(c)(1) of this Code as specified in this section, and based on a HACCP plan that:
- a. Is submitted by the permit holder and approved as specified in subsection (e)(1) this section;
 - b. Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and
 - c. Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

(f) HACCP plan requirements.

(1) **When a HACCP plan is required.**

- a. Before engaging in an activity that requires a HACCP plan, a food establishment shall submit to the health officer for approval a properly prepared HACCP plan as specified under item (2) of this subsection and the relevant provisions of this article if:
 - [1] Submission of a HACCP plan is required according to law;
 - [2] A variance is required as specified under section 20-21.4(c)(4)b of this Code regarding cooking raw animal foods, section 20-21.4(m) of this Code regarding specialized processing methods, or section 20-21.10(p) of this Code regarding molluscan shellfish tanks; or
 - [3] The health officer determines that a food preparation or processing method requires a variance based on an inspectional finding or a variance request.
- b. A food establishment shall have a properly prepared HACCP plan as specified under section 20-21.4(m)(2)b of this Code regarding reduced oxygen packing criteria, Clostridium botulinum controls.

(2) **Contents of a HACCP plan.** For a food establishment that is required under item (1) of this subsection to have a HACCP plan, the plan and specifications shall include:

- a. A categorization of the types of potentially hazardous foods that are specified in the menu, such as soups and sauces, salads, and bulk, solid foods, such as meat roasts, or of other foods that are specified by the regulatory authority;
- b. A flow diagram by specific food or category type identifying critical control points and providing information on the following:
 - [1] Ingredients, materials, and equipment used in the preparation of that food; and
 - [2] Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

- c. A food employee and supervisory training plan that addresses the food safety issues of concern;
- d. A statement of standard operating procedures for the plan under consideration, clearly identifying:
 - [1] Each critical control point;
 - [2] The critical limits for each critical control point;
 - [3] The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
 - [4] The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;
 - [5] Action to be taken by the person in charge if the critical limits for each critical control point are not met; and
 - [6] Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
- e. Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

- (3) **Critical violations, time frame for correction.** A food establishment shall, at the time of inspection, implement corrective actions as specified in TFER 229.171 (I)(1)(2) and verify and document corrections as specified in TFER 229.171 (I)(2)(A)(B).

Sec. 20-20. Inspections; reports.

(a) The health officer shall inspect each food establishment within the city at least once every 12 months, and he shall make as many additional inspections as are necessary for the enforcement of this article, based on the public health risks posed by the establishment and the establishment's past compliance history. Inspections may also be made where consumer complaints and/or reports of foodborne illness outbreaks evidence a need to perform inspections.

(b) The health officer or agents of the health officer, after presentation of proper identification, shall be permitted to enter any food establishment at any reasonable time, for the purpose of making inspections to determine compliance with this article. The health officer or agents of the health officer shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. The person in charge shall demonstrate knowledge.

(c) Whenever an inspection is made of a food establishment, the findings shall be recorded on an inspection report form provided for this purpose, and a copy of the inspection report shall be provided to the person in charge of the establishment, who shall be responsible for posting the report upon an inside wall of the establishment. The inspection report so posted shall not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the department.

(d) The inspection report form shall specify a specific time by which each violation must be corrected; provided, however, the notice shall not relieve any person of criminal or civil penalties for the violations.

(e) In the case of temporary food service establishments, all violations shall be corrected at the time of the inspection unless an extension is allowed by the health officer. In determining whether to allow an extension and the length of the extension, the health officer shall consider the degree of risk, if any, that is posed by the violation and the time reasonably required to correct it. No extension shall be granted where any significant risk of ~~food borne~~ foodborne illness is posed to the public. If violations are not corrected within the specified time limit, the health officer shall immediately suspend the permit.

(f) The report of inspection shall state that failure to comply with any time limits for corrections will require that the establishment immediately cease food service operations.

(g) Whenever a reinspection is required by the health officer to determine that conditions responsible for the reinspection no longer exist, the permit holder shall pay a reinspection fee of \$50.00, and the permit or permits shall not be renewed until the permit holder has paid any outstanding reinspection fees. The health officer shall conduct a reinspection within a reasonable period of time.

(h) ~~Whenever a food establishment is required to cease operations under the provisions of this section, it shall not resume operations until a reinspection determines that conditions responsible for the requirement to cease operations no longer exist. Opportunity for reinspection shall be offered. The health officer shall conduct a reinspection within a reasonable period of time. No fee shall be imposed for the first reinspection; however, for each additional reinspection after the first reinspection conducted pursuant to this subsection, the permit holder shall pay a reinspection fee of \$50.00, and the reinspection shall not be performed until the permit holder has paid the reinspection fee.~~

(i)(h) Food from food establishments outside the jurisdiction of the city may be sold within the city if the food establishments conform to the provisions of this article or to substantially equivalent provisions. To determine the extent of compliance with any substantially equivalent provisions, the health officer may accept reports from responsible authorities in other jurisdictions where the food establishments are located. Where reports cannot be obtained or there is some question regarding their validity, the city may request the food establishment in question to permit an inspection as provided in subsection (b) above. If the food establishment in question refuses to permit an inspection after the director of public health has determined the necessity for the inspection, he shall bar the sale of food from that food establishment within the city. The cost of inspections of food establishments outside the city shall be borne by the food establishment.

Sec. 20-21. Items of sanitation.

All food establishments shall comply with the items of sanitation set forth in sections 20-21.1 through 20-21.28 of this Code.

Sec. 20-21.1. Food supplies.

(a) *General.* Food shall be in sound condition, free from spoilage, filth, or other contamination and ~~shall be safe for human consumption.~~ Food shall be obtained from sources that comply with all laws relating to food and food labeling as defined in TFER section 229.164(p), (q), and (r). Food may not contain unapproved food additives or additives that exceed amounts as specified in TFER 229.164(c)(2). The use of food in hermetically-sealed containers that was not prepared in a food processing establishment is prohibited. Food prepared in or obtained from an unlicensed private home or other unlicensed food establishment is considered to be from an unapproved source and may not be used or offered for sale for human consumption in or from a food establishment. The person in charge or the food

service manager shall ensure that employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt.

(b) *Special requirements.*

(1) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by applicable laws. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(2) Fresh and frozen shucked molluscan shellfish shall be packed in nonreturnable packages that bear a legible label identified with the name and address of the original shell stock shellstock processor, shucker-packer, or repacker, and the interstate certification number issued according to law, and, the "sell by" date for packages of less than 1.87 L (one-half gallon) or the date shucked for packages with a capacity of 1.87 L (one-half gallon) or more. A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information as specified shall be subject to detention. Shell stock and shucked Molluscan shellfish shall be kept in may not be removed from the container in which they were received until they are used, other than immediately before sale or preparation for service. For display purposes, shellstock and shucked shellfish may be removed from the container in which they were received and held in a display container maintained at 41°F, and a quantity specified by the consumer except that molluscan shellfish may be removed from the container in which they were received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if the source of the shellfish on display is identified in accordance with federal law and the shellfish are protected from contamination. For the purposes of display, only shellstock may be displayed on drained ice. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers according to TFER 229.164(d)(4)(A-D). Shellstock shall be obtained and identified as specified in TFER 229.164(c)(8). When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish and broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded. Each container of unshucked shellstock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original Shell stock-shellstock processor, the kind and quantity of Shell stock-shellstock, and an interstate certification number issued by the state or foreign shellfish control agency. The food establishment's management shall retain on file for at least 90 days information pertaining to the source of shellfish products and shall make the information available for inspection or copying by the health officer by using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shell stock are sold or served. Additionally, if shell stock are removed from their tagged or labeled container, using only one tagged or labeled container at a time and ensuring that shell stock from one container are not commingled with shell stock from another container, unless all tagged or labeled information is identical, before being ordered by the consumer.

(3) **Shellstock tags.**

a. Except as specified under item [2] of this paragraph, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

- b. The identity of the source of shellstock that are sold or served shall be maintained by retaining a shellstock tag or label for 90 calendar days from the date the container is emptied by:
- [1] Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and
 - [2] If shellstock are removed from their tagged or labeled container:
 - [a] Preserving source identification by using a record keeping system as specified under subitem [1] of this item; and
 - [b] Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from a container with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label.
- (3)(4) Only clean and sound shell whole-eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs, or pasteurized dry egg products shall be used, except that hard boiled, peeled eggs, commercially prepared and packaged, may be used. Restricted eggs shall not be used. Raw shell eggs shall be received and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less, except that shell eggs that have been specifically processed to destroy all viable Salmonella shall be exempt from this requirement. Shell eggs must be held at an ambient temperature of 45°F (7°C) or lower. Shell eggs that have not been specifically treated to destroy all viable Salmonella shall be labeled to include safe handling instructions as specified in TFER 229.164(b)(1)(G) and shall be stored in refrigerated equipment as specified in this section. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail.
- a. Foods that are not cooked as specified in Table 20-21.4-1 of this Code or foods included in section 20-21.4(c)(3) of this Code; Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods:
- [1] Such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg fortified beverages.
 - [2] That are not cooked as specified in Table 20-21.4-1 of this Code.
 - [3] Not included under section 20-21.4(c)(4) of this Code
- b. In a food establishment that serves a highly susceptible population, pasteurized shell eggs or, pasteurized liquid, frozen or dry eggs or egg products shall be substituted for shell eggs in the preparation of:
- [1] eggs used in foods such as Caesar salad, hollandaise or béarnaise sauce, noncommercial mayonnaise, meringue, eggnog, ice cream and egg fortified beverages; and
 - [2] Except as specified in section 20-21.2(a)(2)e of this section, recipes in which more than one egg is broken and the eggs are combined. This part [2] does not apply if:

- [a] The raw eggs are combined immediately before cooking for one consumer serving at a single meal, cooked as specified under section 20-21.4(c)(1)a of this Code, and served immediately, such as for an omelet, soufflé, or scrambled eggs;
 - [b] The raw eggs are combined as an ingredient immediately before baking and the egg mixture is thoroughly cooked to a ready-to-eat form such as in a cake, muffins, or bread; or
 - [c] The preparation of the food is conducted under a HACCP plan that:
 - {1} Identifies the food to be prepared;
 - {2} Prohibits contacting ready to eat food with bare hands;
 - {3} Includes specifications and practices that ensure:
 - {a} Salmonella Enteritidis growth is controlled before and after cooking; and
 - {b} Salmonella Enteritidis is destroyed by cooking the eggs according to the time and temperature as specified in 20-21.4(c)(1)b of this Code;
 - {4} Contains the information specified in section 20-19(f)(2)d including procedures that:
 - {a} Control cross contamination of ready to eat food with raw egg; and
 - {b} Delineate cleaning and sanitizing procedures for food-contact surfaces; and
 - {5} Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used. ~~eggs for a highly susceptible population if the eggs are broken, combined in a container, and not cooked immediately or if the eggs are held before service following cooking.~~
- (4)(5) All frozen desserts such as ice cream, soft frozen desserts, soft serves, ice milk, slush, noncarbonated fruit-flavored frozen desserts, frozen carbonated beverages, snow cones, sherbets, and their related mixes shall meet the standards of quality established for the products by applicable laws and regulations.
- ~~(5)~~ (6) All food manufactured, processed, or packaged in commercial food processing establishments or commissaries shall be labeled according to all applicable laws as defined in TFER ~~section~~ 229.164(p), (q) and (r).
- (6) (7) Game animals and exotic animals will be approved for sale or service only as authorized by TFER ~~section~~ 229.164(b)(7).

(7) (8) Fish may not be received for sale or service unless commercially and legally caught or harvested, or unless their sale or service is otherwise approved by the health officer. Fish, other than molluscan shellfish and tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), that are intended for consumption in their raw form shall be frozen as specified under section 20-21.3(b)(8) of this Code. The fish may ~~either~~ be frozen either by the supplier or on the premises of the food establishment, and records of the freezing shall be retained at the food establishment for 90 calendar days beyond the time of service or sale of the fish. If the fish are frozen on the premises, then the person in charge shall record the freezing temperature to which the fish are subjected and the duration of such subjection and shall retain the records as specified in this paragraph; records shall be maintained under the supervision of the person in charge; if the fish are frozen by a supplier, a written statement from the supplier stipulating that the fish supplied were frozen as required shall be accepted.

(9) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified as defined in TFER 229.164 (c)(4)(D).

(10) **Juice, treated.**

a. Pre-packaged treated juice shall (i) be obtained from a processor with a HACCP system as specified in TFER 229.164(c)(10)(A), (ii) be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in TFER 229.164(c)(10)(B), or (iii) bear a warning label as specified in TFER 229.164(c)(10)(C).

b. Juice packaged in a food establishment shall be treated under a HACCP plan as specified in section 20-19(f)(2)b-d to attain a 5-log reduction, which is equal to 99.999% reduction, of the most resistant microorganism of public health significance or, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance, shall be labeled as specified in section 20-21.1(a) of this Code and bear the phrase "WARNING": This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems".

c. In a food establishment that serves a highly susceptible population, the following criteria shall apply to juice:

[1] For the purposes of this subitem c only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible population;

[2] Prepackaged juice or prepackaged beverage containing juice that bears a warning label as specified in subitems a and b of this item may not be served or offered for sale; and

[3] Unpackaged juice that is prepared on premises for service or sale in a ready to eat form shall be processed under a HACCP plan as specified in TFER 229.164(u)(1)(C).

- (11) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in section 20-21.4(c)(3) of this Code shall be:
- a. Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that the steaks meet the definition of whole-muscle, intact beef; or
 - b. Deemed acceptable by the regulatory authority based on other evidence, such as written buyer specification or invoices, that indicate that the steaks meet the definition of whole-muscle, intact beef; and
 - c. If individually cut in a food establishment:
 - [1] Cut from whole-muscle intact beef that is labeled by a food processing plant as specified under subitem a of this item or identified as specified under subitem b of this item;
 - [2] Prepared so they remain intact; and
 - [3] If packaged for undercooking in a food establishment, labeled as specified under subitem a of this item or identified as specified under subitem b of this item.
- (12) Meat or poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for human consumption shall be labeled to include safe handling instructions as specified in TFER 229.164(b)(1)(F).
- (13) If a temperature other than 41°F (5°C) for a potentially hazardous food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the temperature specified in such law.

Sec. 20-21.2. Food protection.

(a) *General.*

- (1) At all times, including while being stored, prepared, displayed, served, received, or transported, food shall be protected from potential contamination by all agents, including dust, insects, rodents, toxic materials, cross-contamination, damaged or spoiled products, distressed merchandise, recalled products, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage or overhead drippage from condensation. Upon receipt, potentially hazardous food shall be free of previous temperature abuse. The internal temperature of potentially hazardous foods shall be 45°F (7°C) or below as specified under section 20-21.3(b)(9)b of this Code, or 41°F (5°C) or below or ~~140°F (60°C)~~ 135° F (57° C) or above at all times, except as otherwise provided in this article or unless a packaged product is so labeled as exempted and approved by the appropriate state or federal health authority.
- (2) Except as specified under subitem e of this item, Time only, rather than time in conjunction with temperature, may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, if:

- a. The food is marked or otherwise unmistakably identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control with the time within which it shall be cooked, served or discarded;
- b. The food shall be cooked and served, served if ready-to-eat, is served or discarded, within 4 hours from the point in time when the food is removed from temperature control;
- c. The food in unmarked containers or packages, or in marked containers for which the time elapsed exceeds a four hour limit shall be discarded; or for which the time has expired, is discarded; and
- d. Written procedures are maintained in the food establishment to assure compliance with subitems a, b and c above and also with section 20-21.3(b)(2) of this Code for food that is prepared, cooked and refrigerated before time is used as a public health control hereunder. The procedures shall be made available for inspection and copying by the health officer. The procedures shall be in English and shall also be available in translations to any other language used in lieu of English by the food employees.
- e. A food establishment that serves a highly susceptible population may not use time only, as specified in this section, as the public health control for raw eggs.

(3) Protection from unapproved additives.

- a. Food shall be protected from contamination that may result from the addition of, as specified in section 20-21.1(a) of this Code:
 - [1] Unsafe or unapproved food or color additives; and
 - [2] Unsafe or unapproved levels of approved food or color additives.
- b. A food employee may not:
 - [1] Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or
 - [2] Serve or sell food specified under part [1] of this subitem that has been treated with sulfiting agents before receipt by the food establishment, except that grapes need not meet this requirement.

(b) Cross contamination.

- (1) Food shall be protected from cross contamination by separating raw animal foods during storage, preparation, holding and display from:
 - a. Raw ready-to-eat foods including other raw animal food such as fish for sushi or molluscan shellfish or other raw ready-to-eat food such as vegetables; and
 - b. Cooked ready-to-eat foods.

- (2) Except when combined as ingredients, raw animal foods such as fish, beef, lamb, pork, and poultry shall be separated from each other during storage, preparation, holding, and display by:
 - a. Using separate equipment for each type of food;
 - b. Preparing each type of food at different times or in separate areas; and
 - c. Arranging each type of food in equipment so that cross contamination of one type with another is prevented.
- (3) Cross contamination shall be prevented by:
 - a. Cleaning equipment and utensils as specified under section 20-21.11(a) of this Code and sanitizing as specified under section 20-21.12(e) of this Code;
 - b. Storing the food in packages, containers, or wrappings except as specified under section 20-21.3(a) of this Code;
 - c. Cleaning hermetically-sealed containers of food of visible soil before opening;
 - d. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened; and
 - e. Separating ready-to-eat foods from raw fruits and vegetables, before they are washed as specified under section 20-21.4(b) of this Code.
 - f. Storing damaged, spoiled, or recalled food being held in the food establishment as specified in section 20-21.5(l) of this Code.

(c) Preventing contamination by employees' hands.

- (1) Food employees shall wash their hands as specified under section 20-21.8(a) of this Code.
- (2) Except when washing fruits and vegetables as specified under section 20-21.4(b) of this Code or as specified in item (4) of this subsection, food employees may not contact exposed, ready-to-eat foods with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment to handle such ready-to-eat foods.
- (3) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.
- (4) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat foods with their bare hands if:
 - a. Documentation is maintained at the food establishment that food employees acknowledge that they have received training in:
 - [1] The risks of contacting the specific ready-to-eat foods with bare hands;
 - [2] Proper handwashing as specified under section 20-21.8(a) of this Code;

- [3] When to wash their hands as specified under section 20-21.8(a) of this Code;
- [4] Where to wash their hands as specified under section 20-21.8(b) of this Code;
- [5] Proper fingernail maintenance as specified under section 20-21.8(a) and (g) of this Code;
- [6] Prohibition of jewelry as specified under section 20-21.8(g) of this Code;
- [7] Good hygienic practices as related to sections 20-21.7(a)(2) and 20-21.9(a) through (e) of this Code; and
- [8] Employee health policies that detail how the food establishment complies with section 20-21.7 of this Code;

b. Documentation is maintained at the food establishment that food employees contacting ready-to-eat foods with bare hands utilize two or more of the following control measures to provide additional safeguards against hazards associated with bare hand contact:

- [1] Double hand washing;
- [2] Use of nail brushes;
- [3] Use of a hand sanitizer after hand washing as specified under section 20-21.8(d) of this Code;
- [4] Incentive program that assists or encourages food employees not to work when they are ill, such as paid sick leave; or
- [5] Other control measures approved by the health officer; and

c. Documentation is maintained at the food establishment that corrective actions are taken when subitems a and b of this item are not followed.

~~(e)-(d)~~ Emergency occurrences.

(1) **Ceasing operations and reporting.**

a. In the event of an occurrence, such as a fire, flood, power outage, sewage water back-flow, extended interruption of electrical or water service, misuse of poisonous or toxic materials, onset of an apparent foodborne disease outbreak, gross unsanitary occurrence or condition or similar event, that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately discontinue operation and contact the health officer. Upon receiving notice of this occurrence, the health officer shall, consistent with the nature of the emergency and the risks posed, take appropriate action as he deems necessary to protect the public health.

b. A permit holder need not discontinue operations in an area of an establishment that is unaffected by the emergency occurrence.

- (2) **Resumption of operations.** If operations are discontinued as specified under item (1) of this subsection or otherwise according to law, the permit holder shall obtain approval from the health officer before resuming operations.

Sec. 20-21.3. Food storage.

(a) *General.*

- (1) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent., ~~except that linens and napkins may not be used for lining or covering bread or roll containers in contact with food, unless they are used to line a container for the service of foods and are replaced each time the container is refilled for a new customer.~~ Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be Primal cuts, quarters, or sides of raw meat or slab bacon may be hung uncovered on clean, sanitized hooks or placed on clean, sanitized racks, hung uncovered on clean sanitized hooks if no food product is stored beneath the meat. Whole, uncut, processed meats such as country hams or smoked or cured sausages may be placed uncovered on clean, sanitized racks. ~~Shell stock~~ Shellstock or whole, uncut, raw fruits and vegetables and nuts in the shell that require shucking, peeling or hulling before consumption, or foods being cooled as specified under items (2) and (3) of subsection (b) below need not be covered during storage. When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be arranged in the equipment to provide maximum heat transfer through the container walls and loosely covered, or uncovered if protected from overhead contamination as specified in section 20-21.2(a)(1) of this Code, during the cooling period to facilitate heat transfer from the surface of the food.
- (2) Containers of food shall be stored a minimum of 6 inches (15 centimeters) above the floor in a manner that protects the food from splashing and other contamination and that permits easy cleaning of the storage area, except that:
- a. Metal pressurized or boxed beverage containers, milk containers in plastic crates, and cased food packaged in cans, glass or other waterproof containers need not be elevated when stored on a clean floor ~~and the food container is not exposed to floor moisture;~~
 - b. Food in packages and in working containers may be stored on dollies, racks, or pallets or skids less than 6" (15 cm) above the floor, provided the equipment is easily moveable and equipment necessary for material handling such as pallet jacks or forklift trucks are on the premises; and
 - c. The use of shipping containers such as milk or produce crates, as storage racks or shelf supports, is prohibited.
- (3) Food and containers of food shall not be stored under exposed or unprotected sewer lines or under leaking water lines, or under lines on which water has condensed, including except for automatic fire protection sprinkler heads that may be required by law. The storage of food under open stairwells or in locker rooms, dressing rooms, garbage rooms, mechanical rooms, ~~under open stairwells~~, toilet rooms, vestibules, or other sources of contamination is prohibited.

- (4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.
- (5) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water. Packaged or Unpackaged food shall may not be stored in contact with water or undrained ice, except that whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water. Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.
- (6) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar, or flour, herbs, potato flakes, and spices not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.
- (7) Bulk packaged food stored in food warehouses shall be stored at least 6 inches (15 centimeters) away from walls and off the floor on approved racks or approved pallets in a way that permits inspection under and behind the stored items and in a way that permits the cleaning of the storage area and that protects the food from contamination by splash and other means. Cased food packaged in cans, glass or other waterproof containers need not be elevated when the case of food is not exposed to floor moisture.

(b) *Refrigerated storage.*

~~**Refrigeration facilities.** Conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of all potentially hazardous food at required temperatures during storage. Equipment for cooling and holding cold food shall be sufficient in number and capacity to provide food temperatures as specified under item (9) of this subsection.~~

Each mechanically refrigerated facility storing potentially hazardous food shall be provided with numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$ if scaled in Fahrenheit only. The sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of the mechanically refrigerated unit located to measure the air temperature in the warmest part of the facility and located designed to be easily readable. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$ if scaled in Fahrenheit only, may be used in lieu of indicating thermometers. Thermometers dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 2.7^{\circ}\text{F}$ (1.5°C) in the intended range of use.

- (2) **Rapid cooling temperatures.** Potentially hazardous food requiring refrigeration after ~~preparation~~ cooking shall be rapidly cooled to an internal temperature of 45°F (7°C) or below as specified under part b of item (9) below or to 41°F (5°C) or below with cooling occurring within the following parameters:
 - a. From 140°F (60°C) to 70°F (21°C) within 2 hours; and from 70°F (21°C) to 41°F (5°C) or below, or to 45°F (7°C) or below as specified under part b of item (9) below, within 4 hours; An initial rapid cooling from 135°F (57°C) to 70°F (21°C) within two hours; and from 135°F (57°C) to 41°F (5°C) or below, or to 45°F (7°C) or below within a total of six hours as specified under subitem b of item (9) of this subsection.

- b. To 45°F (7°C) or below as specified under ~~part subitem b~~ of item (9) ~~below of this subsection~~ or to 41°F (5°C) or below within 4 hours if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna; ~~and;~~
 - c. Except as specified in subitem d of this item, if received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier ~~as specified in 20-21.1(b)(13) of this Code~~, to 45°F (7°C) as specified under ~~part subitem b~~ of item (9) ~~below of this subsection~~ or to 41°F (5°C) or below within 4 hours.
 - d. Raw shell eggs shall be received as specified under section 20-21.1(b)(3) of this Code and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.
- (3) **Methods for rapid cooling.** Potentially hazardous foods that require cooling shall be rapidly cooled in accordance with the time and temperature criteria specified under item (2) ~~above of this subsection~~ by utilizing methods such as shallow pans, agitation, quick chilling, separating the food into smaller or thinner portions, using rapid cooling equipment, using containers that facilitate heat transfer, adding ice as an ingredient, ~~or water circulation external to the food container; or other effective methods.~~ Potentially hazardous food to be transported shall be prechilled and held at a temperature of 45°F (7°C) or below as specified under ~~part subitem b~~ of item (9) ~~below of this subsection~~ or 41°F (5°C) or below unless maintained in accordance with item (2) of subsection (c) ~~below of this section regarding hot storage of potentially hazardous food.~~ The person in charge shall ensure that employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling.
- (4) A food that is labeled frozen and shipped frozen by a processing plant shall be received frozen. ~~Frozen foods shall and be~~ kept frozen.
- (5) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils, but may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.
- (6) All perishable food shall be stored at temperatures that will protect against spoilage.
- (7) Frozen foods prepared in any food service establishment once thawed shall not be refrozen.
- (8) **Cold storage of certain fish.** Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen ~~throughout to a temperature of -4°F (-20°C) or below for 168 hours (7 days) in a freezer; or frozen until solid at -31°F (-35°C) or below and stored at -31°F (-35°C) or below for 15 hours in a blast freezer,~~ except for tuna species specified under section 20-21.1(b)(8) of this Code.
- (9) **Cold storage of foods.** Except during preparation, cooking or cooling, or when time is used as the public health control as specified under section 20-21.2(a)(2) of this Code, potentially hazardous food shall be maintained:
- a. At 41°F (5°C) or below; or

- b. At 45°F (7°C) or below, if and only to the extent authorized by TFER 229.164(a)(6)(G)(B)(ii). Refrigeration units shall be upgraded or replaced as and within the time provided in TFER.

(10) **Date marking of ready-to-eat foods.**

- a. The following definitions apply to the provisions of this item and item (11) ~~below of this subsection~~:

Disposition date shall mean the date or day by which a ready-to-eat potentially hazardous food shall be consumed, sold or disposed of.

Opening /preparation date shall mean the date counted as day 1 that a ready-to-eat potentially hazardous food is prepared or that a container of ready-to-eat potentially hazardous food is opened.

Refrigerated-hold time shall mean the length of time that a ready-to-eat potentially hazardous food was held refrigerated before being frozen, counting the commencement date.

- b. ~~Except as specified in this subitem, for individual meal portions served or repackaged for sale from a bulk container upon a consumer's request or whole unsliced portions of a cured and processed product in cellulose or similar casing with original casing maintained on the remaining portion such as bologna, salami or other sausage in a cellulose casing, each refrigerated ready-to-eat, potentially hazardous food prepared and held refrigerated in a food establishment for more than 24 hours and, except for subitems d-g of this item, each container of refrigerated ready-to-eat potentially hazardous food prepared and packaged by a food processing plant that is opened in a food establishment shall be clearly marked using calendar dates, days of the week, color-coded marks, or other effective means to indicate the date or time the original container is opened in a food establishment and, if held for more than 24 hours, to indicate the date and time by which the food shall be consumed on the premises, sold, or discarded, based on the following temperature and time combinations: and held refrigerated in a food establishment for more than 24 hours and each container of refrigerated ready-to-eat potentially hazardous food prepared and packaged by a food processing plant that is opened in a food establishment shall be clearly marked at the time the food is prepared or the container is opened to indicate the opening/preparation date and the disposition date, which shall be:~~

~~(i)1] The seventh calendar day after the opening/preparation date, counting the opening/preparation date, if the food is maintained at 41°F (5°C) or below; or~~

~~(ii)2] The fourth calendar day after the opening/preparation date, counting the opening/preparation date, if the food is maintained at 45°F (7°C) or below as specified under subitem b of item (9) of this subsection.~~

The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

- c. A refrigerated, ready-to-eat potentially hazardous food that is frequently

rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in paragraph subitem b above of this item or by an alternative method acceptable to the health officer. ~~Except for individual meal portions served or repackaged for sale from a bulk container upon a consumer's request or whole unsliced portions of a cured and processed product in cellulose or similar casing with original casing maintained on the remaining portion such as bologna, salami or other sausage in a cellulose casing, each ready to eat, potentially hazardous food prepared and repackaged in a food establishment and subsequently frozen and each container of refrigerated ready to eat potentially hazardous food prepared and packaged by a food processing plant and subsequently opened and frozen in a food establishment shall be clearly marked as follows:~~

- ~~(i) When the food is thawed, to indicate that the food shall be consumed or disposed of within 24 hours;~~
- ~~(ii) When the food is placed in the freezer, to indicate the refrigerated hold time, which shall be: seven calendar days or less if the food was refrigerated at 41°F (5°C) or below; or four calendar days or less, if the food was refrigerated at 45°F (7°C) or below as specified under part b of item (9) above; and~~
- ~~(iii) When the food is removed from the freezer, to indicate the disposition date, which shall be:
 - ~~1. The seventh calendar day after the food is removed from the freezer, minus the refrigerated hold time, counting the opening/preparation date, if the food was held refrigerated at 41°F (5°C) or below before and after freezing; or~~
 - ~~2. The fourth calendar day after the food is removed from the freezer, minus the refrigerated hold time, counting the opening/preparation date, if the food is held refrigerated at 45°F (7°C) or below as specified under part b of item (9) above before and after freezing.~~~~

d. Alternative date marking systems must receive prior approval from the health officer.

e. Subitem b of this item does not apply to cheeses that are maintained under refrigeration as specified in TFER 229.164(o)(7)(E).

f. Subitem b of this item does not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

g. Subitem b of this item does not apply to the following when the face has been cut, but the remaining portion is whole and intact:

[1] Fermented sausages produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated" and retain the original casing on the product;

[2] Shelf stable, dry, fermented sausages; and

[3] Shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated."

h. Subitem b of this item does not apply to cultured dairy products, as defined in TFER 229.164(o)(7)(H), Milk and Cream, such as yogurt, sour cream, and buttermilk, that are maintained under refrigeration as specified in item (9) of this subsection.

i. Subitem b of this item does not apply to preserved fish products, such as pickled herring, dried or salted cod, and other acidified fish products defined in TFER 229.164(o)(7)(I).

j. A refrigerated, ready-to-eat, potentially hazardous food ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(11) ***Disposition of ready-to-eat foods.***

a. Except the time that the product is frozen, any food that exceeds either of the temperature and time combinations, specified under item (10) above of this subsection that is not consumed before the disposition date marked on the food container or package shall be discarded.

b. Any food specified under item (10) above of this subsection in a container or package that does not bear an appropriately marked a date or day marking, color-coded marks, or other effective means to indicate the date or time the original container was opened, disposition date or refrigerated hold time shall be discarded.

c. Any food specified under item (10) above of this subsection that is inappropriately marked with a date or day time marking or signal that indicates exceeds a temperature and time combination that is in excess of those date or time specified under item (10) above of this subsection shall be discarded.

(c) ***Hot storage.***

(1) Conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Equipment for heating food and holding hot food shall be sufficient in number and capacity to provide food temperatures as specified under section 20-21.3(c)(2) of this Code. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$ if scaled in Fahrenheit only. The sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the coolest part of the hot food storage unit, located to measure the air temperature in the coolest part of the facility and designed to be easily readable. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$ if scaled in Fahrenheit only, may be used in lieu of indicating thermometers. Thermometers dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 2.7^{\circ}\text{F}$ (1.5°C) in the intended range of use. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer food temperature measuring device must be

available and used to check internal food temperature.

- (2) The internal temperature of potentially hazardous foods requiring hot storage shall be 135°F (57°C) or above except during necessary periods of preparation or when time is used as the public health control as specified under section 20-21.2(a)(2) of this Code. Roasts cooked to a temperature and for a time as specified in Table 20-21.4-3 of this Code or reheated as specified in Table 20-21.4-1 of this Code may be held at a temperature of 130°F (54°C) or above. Potentially hazardous food to be transported shall be held at a temperature of ~~140~~135°F (60.57°C) or above unless maintained in accordance with items (2) and (3) of subsection (b) ~~above~~ of this section.

Sec. 20-21.4. Food preparation.

(a) *General.* Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

(b) *Raw fruits and raw vegetables.* Raw fruits and raw vegetables shall be washed thoroughly in potable water under pressure before being cut, combined with other ingredients, cooked, or served for human consumption or offered for consumption in ready-to-eat form, except fruits and vegetables may be washed by using chemicals as specified in 21 CFR 173.315. Whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.

(c) *Cooking potentially hazardous foods.*

- (1) ***Time and temperature specifications.*** ~~Except as specified in item (3) below, potentially hazardous foods shall be cooked to heat all parts of the food to the temperature and for the applicable time specified in the second column of Table 20-21.4-1. The person in charge shall ensure that employees are properly cooking potentially hazardous food and being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under section 20-21.10(f) of this Code. Except as specified under Tables 20-21.4-1, 20-21.4-2, and 20-21.4-3 of this section, raw animal foods, such as eggs, fish, meat, or poultry, and foods containing any of these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:~~

a. 145°F (63°C) or above for 15 seconds for:

[1] Raw shell eggs that are broken and prepared in response to a consumer's order for immediate service; and

[2] Except as specified under subsections (b) and (c) of this section and in Tables 20-21.4-2 and 20-21.4-3, fish, meat, and pork, including game animals and exotic animals commercially raised for food as specified under TFER 229.164(b)(7)(A)(i) and 229.164(b)(7)(B)(i), and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 229.164(b)(7)(B)(ii).

b. 155°F (68°C) for 15 seconds or the temperature specified in Table 20-21.4-1 that corresponds to the holding time for:

[1] Ratites and injected meats;

[2] The following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food as specified under TFER 229.164(b)(7)(A)(i) and (b)(7)(B)(i), and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 229.164(b)(7)(B)(ii); and

[3] Raw eggs that are not prepared as specified under subitem a[1] of this item; or

c. 165°F (74°C) or above for 15 seconds for:

[1] Poultry, game animals and exotic animals as specified under TFER 229.164(b)(7)(A)(iii) and 229.164(b)(7)(B)(iii) and (iv);

[2] Stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffed ratites; or

[3] Stuffing containing fish, meat, poultry, or ratites.

(2) ***Special additional requirements for microwave cooking.*** In addition to the temperature and time requirements in the second column of Table 20-21.4-1 of this Code, raw animal foods cooked in a microwave oven shall be:

- a. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- b. Covered to retain surface moisture; and
- c. Heated to a temperature of at least 165°F (74°C) in all parts of the food; and
- d. Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

Raw, rare or partially cooked foods. ~~Except in food establishments serving a highly susceptible population, the requirements for cooking potentially hazardous food as specified in this subsection above do not apply if, upon consumer order, the food is a raw animal food, such as raw, marinated fish or steak tartare, or a partially cooked food, such as lightly cooked fish, rare meat or soft cooked eggs, Raw or undercooked whole-muscle, intact beef steak may be served or offered for sale if it meets the requirements in Table 20-21.4-1 of this Code.~~

(4) Except as specified in items (3) and (8) of this subsection, a raw animal food, such as raw eggs, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food, such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steak as specified in item (3) of this subsection, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

- a. The consumer is informed as specified in item (5) of this subsection that to ensure its safety the food should be cooked as specified under subsection (c)(1) of this section; or

- b. The department grants a variance from subsection (c)(1) of this section as specified under section 20-19(e) of this Code based on a HACCP plan that:
- [1] Is submitted by the permit holder and approved as specified under section 20-19(e)(1) of this Code
 - [2] Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and
 - [3] Verifies that equipment and procedures for food preparation and training for food employees at the food establishment meet the conditions of the variance.
- (5) **Consumer advisory.** Except as specified in items (3) and (8) of this subsection, if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in items (6) and (7) of this subsection, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.
- (6) Disclosure shall include:
- a. A description of the animal-derived foods, such as “oysters on the half shell (raw oysters)”, “raw-egg Caesar salad”, and “hamburgers (can be cooked to order)”; or
 - b. Identification of the animal-derived foods in a menu or other listing by asterisking them to a footnote that states that the items are served raw or undercooked or contain (or may contain) raw or undercooked ingredients.
- (7) Reminder shall include asterisking the animal-derived foods that require disclosure in a menu or other listing to a footnote that states that:
- a. Written information regarding the safety of these items is available upon request;
 - b. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk for foodborne illness; or
 - c. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk for foodborne illness, especially if you have certain medical conditions.
- (8) The following foods may not be served or offered for sale in a ready-to-eat form in a food establishment serving a highly susceptible population:
- a. Raw animal foods, such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;
 - b. A partially cooked animal food, such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue; and
 - c. Raw seed sprouts.

(d) *Dry milk and dry milk products.* Reconstituted dry milk and dry milk products may only be used in instant desserts and whipped products or for cooking and baking purposes.

(e) *Liquid, frozen, or dry eggs and egg products.* Liquid, frozen, or dry eggs and egg products shall be used only for cooking and baking purposes.

(f) *Reheating for hot holding.*

- (1) ***Time and temperature specifications.*** Potentially hazardous foods that were cooked and then refrigerated shall be reheated rapidly to the temperature and for the applicable time specified in the third column of Table 20-21.4-1 of this Code before being served or placed in a hot food storage facility. The temperature of the food shall reach the minimum temperature specified in the table within two hours from the removal of the food from refrigeration.
- (2) ***Hot holding facilities not for rapid reheating.*** Steam tables, bainmaries, warmers, and similar hot food holding facilities shall not be used for the rapid reheating of potentially hazardous foods.
- (3) ***Additional requirements for reheating in microwave oven.*** Food reheated in a microwave oven for hot holding shall be reheated so that the food is covered and either rotated or stirred during reheating; the food shall then be allowed to stand covered for two minutes after reheating.
- (4) ***Sealed or packaged food.*** Ready-to-eat food taken from a commercially-processed, hermetically-sealed container or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant shall be heated to a temperature of at least 140°F (60°C), for hot holding.

(g) *Preparation for immediate service.* Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature, as requested by the customer.

(h) *Nondairy products.* Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 45°F (7°C) or below as specified under section 20-21.3(b)(9)b of this Code or to 41°F (5°C) or below within four hours after preparation.

(i) ~~*Product thermometers.*~~ *Temperature measuring device, food.* Food temperature measuring devices ~~Metal stem type numerically scaled indicating thermometers~~ accurate to ±2°F in the intended range of use shall be provided and used to assure attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods if the thermometers are scaled only in Fahrenheit. If the thermometers are scaled in Celsius or dually scaled, they shall be accurate to ±1.8°F (1°C) in the intended range of use. A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and kept readily accessible to accurately measure the temperature in thin foods, such as meat patties and fish fillets.

(j) *Thawing potentially hazardous foods.* Except as specified in item (5) of this subsection, ~~Potentially hazardous foods shall be thawed:~~

- (1) In refrigerated units at a temperature not to exceed 45°F (7°C) as specified under section 20-21.3(b)(9)b of this Code or 41°F (5°C);

- (2) Completely submerged under potable running water of a temperature of 70°F (21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow, provided the temperature of the thawed portions of potentially hazardous food shall not remain above 45°F (7°C) as specified under section 20-21.3(b)(9)b of this Code or 41°F (5°C) for more than four hours, including the time needed for preparation for cooking the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to 41°F (5°C) as specified in section 20-21.3(b)(9)a of this Code, or 45°F (7°C) as specified in section 20-21.3(b)(9)b of this Code;
- (3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven;
- (4) As part of the conventional cooking process; or
- (5) Using any other safe procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer's order.

(m) Specialized processing methods.

- (1) **Variance requirement.** A food establishment shall obtain a variance from the department as specified in section 20-19(e)(1) of this Code before:

a. Smoking food as a method of food preservation rather than as a method of flavor enhancement;

b. Curing food;

c. Using food additives or adding components such as vinegar:

[1] As a method of food preservation rather than as a method of flavor enhancement; or

[2] To render a food so that it is not potentially hazardous;

d. Packaging food using a reduced oxygen packaging method except as specified under item (2) of this subsection where a barrier to Clostridium botulinum in addition to refrigeration exists;

e. Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;

f. Custom processing animals that are for personal use as food and not for sale or service in a food establishment;

g. Preparing food by another method that is determined by the regulatory authority to require a variance; or

h. Sprouting seeds or beans in a retail food establishment.

- (2) **Clostridium botulinum controls, reduced oxygen packaging criteria.**

- a. Except for a food establishment that obtains a variance as specified under item (1) of this subsection, a food establishment that packages food using a reduced oxygen packaging method where Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of C. botulinum.

- b. A food establishment that packages food using a reduced oxygen packaging method where Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under section 20-19(f)(2)(d) of this Code, and that:
 - [1] Identifies the food to be packaged;

 - [2] Limits the food packaged to a food that does not support the growth of Clostridium botulinum because it complies with one of the following:
 - [a] Has an a_w of 0.91 or less;

 - [b] Has a pH of 4.6 or less;

 - [c] Is a meat or poultry product cured at a food processing plant regulated by the USDA or the department using substances specified in 9 CFR §424.21, Use of food ingredients and sources of radiation, and is received in an intact package; or

 - [d] Is a food with a high level of competing organisms such as raw meat or raw poultry;

 - [3] Specifies methods for maintaining food at 41°F (5°C) or below;

 - [4] Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - [a] Maintain the food at 41°F (5°C) or below; and

 - [b] For food held at refrigeration temperatures, discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

 - [5] Limits the refrigerated shelf life to no more than 14 calendar days from packaging to consumption, except the time the product is maintained frozen, or not past the original manufacturer's "sell by" or "use by" date, whichever occurs first;

 - [6] Includes operational procedures that:
 - [a] Prohibit contacting food with bare hands;

 - [b] Identify a designated area and the method by which:
 - {1} Physical barriers or methods of separation of raw foods

and ready-to-eat foods minimize cross contamination;
and

{2} Access to the processing equipment is limited to
responsible trained personnel familiar with the potential
hazards of the operation; and

[c] Delineate cleaning and sanitization procedures for food-contact
surfaces; and

[7] Describes the training program that ensures that the individual
responsible for the reduced oxygen packaging operation understands
the:

[a] Concepts required for a safe operation;

[b] Equipment and facilities; and

[c] Procedures specified under part [6] of this subitem and section
20-19(f)(2)d of this Code.

(3) Except for fish that is frozen before, during, and after packaging, a food establishment
may not package fish using a reduced oxygen packaging method.

TABLE 20-21.4-1 Cooking Potentially Hazardous Foods

Food	Cooking Temperature & Time and Instructions	Reheating Minimum Temperature & Time (minimum temperature to be reached within 2 hours)
<ul style="list-style-type: none"> Fruits and vegetables cooked for hot holding 	135°F (57°C)	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> A raw or undercooked whole muscle, intact beef steak, not served in a food establishment serving a highly susceptible population and labeled to indicate that it meets the definition of whole muscle intact beef as specified in section 20-21.1(b)(11) of this Code 	<u>Shall be cooked on both the top and bottom to a surface temperature of 145°F (63° C) or above and a cooked color change is achieved on all external surfaces.</u>	
<ul style="list-style-type: none"> Raw animal foods not specified below Raw shell eggs that are broken and prepared to order to a consumer order and for immediate service Fish, meat, game animals and exotic animals commercially raised for food, and under game animals and exotic animals subjected to a voluntary inspection program that are not specified below Pork 	145°F (63°C) for 15 seconds	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> Pork Ratites Injected meats Any of the following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food, and game animals and exotic animals subjected to under a voluntary inspection program Raw shell eggs not prepared as specified above 	155°F (68°C) for 15 seconds; or 150°F (66°C) for 60 seconds; or 145°F (63°C) for 180 seconds; or <u>158° F (70°C) for less than 1 second (instantaneous).</u>	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> Poultry other than ratites Wild game animals and exotic animals that are live caught and are under subjected to a voluntary inspection program Stuffed fish/meat/poultry/pasta/ratites Stuffing containing fish/meat/poultry/ratites 	165°F (74°C) for 15 seconds	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> Whole beef roast, unless otherwise ordered by consumer Whole corned beef roast Whole pork roast and cured pork roast 	Shall be cooked in an oven that is preheated to and held at the temperature specified for the roast's weight and the type of oven, as applicable, in Table 20-21.4-2 of this Code and shall be cooked so that all parts of the roast are heated to the temperature and for the holding time that corresponds to that temperature in Table 20-21.4-3 of this Code.	Unsliced portions, if cooked in accordance with Cooking Temperature and Time, at left, may be reheated in the same manner
<ul style="list-style-type: none"> Raw animal foods cooked in a microwave oven 	165°F (74°C) and allowed to stand for two minutes	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> Ready-to-eat food taken from hermetically-sealed container or intact package from an inspected food processing plant 	—	140-135 °F (60-57°C) without time duration

TABLE 20-21.4-2 Cooking Whole Beef or Corned Beef—Oven Preheating/Holding Requirements by Weight

Oven Type	Oven temperature based on ROAST weight	
	Less than 10 lbs. (4.5 Kg)	10 lbs. (4.5 Kg) or more
STILL DRY	350°F (177°C) or more	250°F (121°C) or more
CONVECTION	325°F (163°C) or more	250°F (121°C) or more
HIGH HUMIDITY®	250°F (121°C) or more	250°F (121°C) or more

® Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity

TABLE 20-21.4-3
Cooking Whole Beef or Corned Beef Roasts—Heating temperatures and holding times

Temperature °F (°C)	Time in Minutes®	Temperature °F (°C)	Time in Minutes®	Temperature °F (°C)	Time in Minutes®
130°F (54.4°)	121	136°F (58°C)	32	142°F (61°C)	8
132°F (56°C)	77	138°F (59°C)	19	144°F (62°C)	5
134°F (57°C)	47	140°F (60°C)	12	145°F (63°C)	3

® Holding time may include post-oven heat rise

Temperature °C °F	Time in Minutes @	Temperature °C °F	Time in Seconds @
54.4 130	112	63.9 147	134
55.0 131	89	65.0 149	85
56.1 133	56	66.1 151	54
57.2 135	36	67.2 153	34
57.8 136	28	68.3 155	22
58.9 138	18	69.4 157	14
60.0 140	12	70.0 158	0
61.1 142	8		
62.2 144	5		
62.8 145	4		

®Holding time may include postover heat rise.

Sec. 20-21.5. Food display and service.

(a) *Potentially hazardous foods.* Except when time is used as a public health control as specified in section 20-21.2(a)(2) of this Code, potentially hazardous food shall be kept at an internal temperature of 45°F (7°C) or below as specified under section 20-21.3(b)(9)b of this Code or at 41°F (5°C) or below or at a temperature of 140 135°F (57°C) or above during display and service, except that rare roasts cooked to a temperature and for a time specified in Table 20-21.4-3 of this Code or reheated as specified in Table

20-21.4-1 of this Code may be held for service at a temperature of 130°F (54°C) or above. ~~beef shall be held for service at a temperature of at least 130°F (54°C).~~

(b) *Milk and cream dispensing.*

- (1) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where it is necessary to provide individual servings under special institutional circumstances, milk and milk products may be poured from a commercially filled container provided the procedure is authorized by the health officer. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container. The bulk milk container dispensing tube shall be cut on the diagonal leaving no more that one inch protruding from the chilled dispensing head.
- (2) Cream or half-and-half shall be provided in an individual service container or a protected pour-type pitcher or drawn from a refrigerated dispenser designed for individual service.

(c) *Nondairy product dispensing.* Nondairy creaming or whitening agents shall be provided in an individual service container or a protected pour-type pitcher or drawn from a refrigerated dispenser designed for individual service.

(d) *Condiment dispensing.*

- (1) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with subsection (h) below.
- (2) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer usage shall be provided in individual packages or in pour-type dispensers.

(e) *Ice dispensing.* Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice self-dispensing utensils or through automatic service, ice dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

(f) *Dispensing utensils.* To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. During Between uses during service pauses in food preparation and dispensing, utensils shall be:

- (1) Except as specified in item (6) of this subsection, stored in the food with the dispensing utensil handle extended out of the food;
- (2) Stored in a clean protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous;
- (3) Stored in running water of sufficient velocity to flush particulates to a proper drain if used with moist foods such as ice cream or mashed potatoes;

- (4) Stored in water that maintains a temperature of at least 140 135°F (60 57°C) or if the container is cleaned at a frequency specified under section 20-21.11(a)(5)(g) of this Code;
- (5) Stored on a clean portion of the food preparation table or cooking equipment and cleaned and sanitized at a frequency specified under section 20-21.11 of this Code; or
- (6) Stored in food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon.

~~(g) Returned food and Re-service of food. Once served to a consumer, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served, except in a food establishment that serves a highly susceptible population. Except as specified in subitems a and b of item (1) of this subsection, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.~~

- (1) A container of food that is not potentially hazardous may be transferred from one consumer to another if:
 - (a) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing ketchup, steak sauce, or wine; or
 - (b) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

(2) Re-service of food:

- (a) Any food served to patients or clients who are under contact precautions and medical isolation or quarantine, protective environmental may not be re-served to others outside; and
- (b) Packages of food from any patient, client, or other consumer may not be re-served to persons in protective environment isolation.

(h) *Display equipment.* Except for nuts in shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display. A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

(i) *Bulk food display, service.*

- (1) Sale of unpackaged food that is displayed and sold in bulk from a self-service container is authorized, provided that:
 - a. The self-service container has a tight-fitting lid that is securely attached to the container and kept closed except during service or refill;

- b. The container, lid and any other utensil are constructed of easily cleanable material nontoxic materials that provide for easy cleaning and proper repair ~~and are kept clean and in good repair~~;
 - c. A utensil equipped with a handle is provided and used for dispensing of food; and
 - d. A conspicuous sign instructing the customer on the proper dispensing procedure is posted in the immediate display area.
- (2) Unpackaged, raw animal food, such as beef, lamb, pork, poultry and fish, may not be offered for consumer self-service, except that consumer self-service of ready-to-eat foods is authorized at a buffet that serves food such as raw shellfish or sushi, or other ready-to-cook individual food portions for immediate cooking and consumption on the premises, such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbeque or raw, frozen, shell-on shrimp or lobster.

(j) *Reuse of tableware.* Reuse of soiled tableware including single-service articles by self-service consumers returning to the service area for additional food or by food employees providing second portions or refills to the consumer is prohibited. Beverage cups and glasses are exempt from this requirement if refilling is a contamination-free process; provided consumers shall not be allowed to refill beverage tableware except by using self-service automatic beverage dispensing equipment. The person in charge or the food service manager shall ensure that consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets. Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures. A card, sign or other effective means of notification shall be displayed to notify consumers that clean tableware is to be used upon return to self-service areas such as salad bars and buffets.

(k) *Food donations.* Foods previously served to a consumer, foods in heavily rim- or seam-dented cans or packaged foods without the manufacturer's complete labeling shall not be donated. Donated foods shall be labeled with the name of the food, the source of the food and the preparation date of the food. Donated potentially hazardous foods may not exceed the shelf life for leftover foods outlined in section 20-21.3(b)(10) of this Code.

A potentially hazardous food may be donated if:

- (1) The food has been kept at the required temperatures and the shelf life of the food has not been exceeded, as required under sections 20-21.3 and 20-21.4 of this Code; or above 135°C (57°C) during hot holding and service, and subsequently refrigerated to meet the time and temperature requirements under section 20-21.3(b)(2) of this Code.
- (2) The donor can substantiate that the recipient has the facilities to meet the transportation, storage, holding, heating, and reheating requirements of this article;
- (3) The temperature of the food is at or below 41°F (5°C) at the time of donation, and the food is protected from contamination; and
- (4) If the food is transported by the recipient directly to the consumer, the recipient need only meet the transportation requirements, including holding temperatures, under these rules.

(l) *Distressed merchandise, segregation and location.* Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from foods, equipment, utensils, linens, single-service articles, and single-use articles. Distressed foods, such as foods subjected to fire, flooding, excessive heat, smoke, radiation, other environmental contamination or prolonged storage, shall not be

directly donated for consumption by the consumer. Distressed foods may be sold or donated to a licensed food salvage establishment if the establishment is permitted under the provisions of Chapter 432 of the Texas Health and Safety Code.

Sec. 20-21.6. Food transportation.

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of these rules relating to food protection and food storage.

Sec. 20-21.7. Employee health.

(a) *General.*

- (1) Prevention of disease transmission. No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of the infected or afflicted person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.
- (2) Discharges from the eyes, nose and mouth. Food employees who are experiencing persistent sneezing or coughing or a runny nose that causes discharges from the eyes, nose or mouth may not work with exposed food, clean equipment, utensils and linens, ~~or~~ unwrapped single-service articles, or single-use articles.
- (3) Notification of health officer. The permit holder or person in charge of a food service establishment shall notify the health officer as specified in TFER 229.171(p) with respect to reporting of communicable diseases.

(b) *Reporting responsibility; restriction or exclusion of employees.* In addition to the foregoing requirements, each permit holder, person in charge, food employee and food employee applicant to whom a conditional offer of employment is made shall comply with and the health officer shall administer and enforce the provisions of TFER 229.163(d) with respect to reporting, restriction and exclusion of food establishment employees and applicants for employment from opportunities to transmit disease in the establishment. The person in charge shall notify the health officer that a food employee is diagnosed with an illness due to Norovirus, Salmonella typhi, Shigella spp., shiga toxin-producing Escherichia coli, or hepatitis A virus.

Sec. 20-21.8. Personal cleanliness.

(a) *General.* Food employees shall keep their hands and exposed portions of their arms clean. Food employees shall thoroughly wash their hands and the exposed portions of their arms (or surrogate prosthetic devices for hands and arms) for at least 20 seconds with a cleaning compound by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water in a lavatory that is equipped as specified in section 20-21.19 of this Code. If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands as specified in section 20-21.19(e) of this Code. Food employees shall use the following cleaning procedures to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms.

- (1) Vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands and arms (or by vigorous rubbing the surrogate prosthetic devices for hands and arms) for at least 10-15 seconds, followed by;
- (2) Thorough rinsing under clean, running warm water; followed immediately by
- (3) Thorough drying of cleaned hands and arms (or surrogate prosthetic devices) using a method specified in section 20-21.19(c) of this Code.

Food employees shall clean their hands and exposed portions of their arms as specified in this section immediately before starting work, during work as often as is necessary to keep them clean, and after touching bare human body parts other than clean hands, when before switching between working with raw foods and working with ready-to-eat foods, during food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks, before donning gloves for working with food, after caring for or handling service animals or aquatic animals as specified in section 20-21.28 of this Code, after handling soiled equipment and utensils, after coughing and sneezing, after using a handkerchief or disposable tissue, after smoking, using tobacco, eating, drinking, or using the toilet room, and after any other activities that may contaminate employees' hands. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable, not rough. Food employees shall clean pay particular attention to the areas underneath the fingernails and between fingers during the cleaning procedure. The person in charge or the food service manager shall ensure that employees are effectively cleaning their hands by routinely monitoring the employee's hand-washing.

(b) Food employees shall clean their hands in a handwashing lavatory or approved automatic handwashing facility and may not clean their hands in a sinks used for food preparation or utensil or equipment washing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

(b)(c) Special hand-wash procedure. Employees not utilizing suitable utensils or single-use gloves when handling ready-to-eat foods shall wash hands as described under subsection (a) above and follow the comply with the procedure specified in section 20-21.2(c)(4) of this Code, with use of an approved hand sanitizer or chemical hand sanitizing solution used as a hand dip as specified in subsection (c) below.

(e)(d) Hand sanitizers. When used, a hand sanitizer or a chemical hand sanitizing solution used as a hand dip shall have active antimicrobial ingredients that are listed as safe and effective for application to human skin or authorized and listed for use as a hand dip in the United States Department of Agriculture (USDA) list of Proprietary Substances and Nonfood Compounds, Publication 1419, and have components that are generally recognized as safe (GRAS) for the use in contact with food or exempted from the requirement of being listed in the federal food additive regulations or regulated for the intended use as food additives. A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:

- (1) Comply with one of the following:
 - a. Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness; or
 - b. Have active antimicrobial ingredients that are listed in the FDA monograph for over-the-counter (OTC) Health-Care Antiseptic Drug Products as an antiseptic handwash; and

(2) Consist of components that are:

- a. Listed for such use in contact with food in 21 CFR 178, Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers; or
- b. Exempt from regulation as food additives under 21 CFR 170.39, Threshold of Regulation for Substances Used in Food-contact Articles; or
- c. Generally recognized as safe (GRAS) for the intended use in contact with food within the meaning of the Federal Food, Drug and Cosmetic Act (FFDCA); or
- d. Permitted for such use by an effective Food Contact Substance Notification as defined by paragraph 409(h) of the FFDCA and listed in FDA's Inventory of Effective Premarket Notifications for Food Contact Substances. Hand sanitizer shall be applied only to hands that are cleaned as specified above and shall be reapplied after any activities that may contaminate the employee's hands. A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 ppm (100 mg/L) chlorine.

~~(d)(e) Clothing. The outer clothing of all employees shall be clean. Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.~~

~~(e)(f) Hair restraint. While handling food or utensils, food employees shall use wear effective hair restraints and clothing that covers body hair to prevent the contamination of food or food-contact surfaces. An effective hair restraint shall mean any cap, hat, or hair net made of fabric, cord, plastic, or paper, that effectively covers and holds hair in place. The use of effective hair restraints shall also apply to any exposed scalp or facial hair, where there is the potential for contamination of food or food-contact surfaces. An effective hair restraint shall also be used in the partial or complete absence of scalp hair to preclude touching of the scalp and returning to food handling without hand-washing. Facial hair restraints will not be required when facial hair is well-groomed and trimmed.~~

~~(f)(g) Jewelry and nail polish. While preparing food, unless wearing intact gloves, a food employee may not wear artificial polish or artificial fingernails when working with exposed food. While preparing food, a food employee may not wear any jewelry, including medical identification jewelry, on their arms or hands. food employees may not wear fingernail polish or jewelry on their arms and hands. This subsection does not apply to a plain ring such as a band style ring.~~

~~(g)(h) Exceptions. Subsections (e) (f) and (f) (g) above of this section do not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods or to host staff and wait staff, if they present a minimal risk of contaminating exposed food, clean equipment, utensils and linens, or unwrapped single-service articles and single-use articles.~~

Sec. 20-21.9. Employee practices generally.

(a) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there might result in contamination of other food, equipment, utensils, or other items needing protection. As an exception to the foregoing requirements, an employee may drink within the food establishment from a closed nonspillable beverage container if the container is handled in a manner so as to prevent contamination of the employee's hands, the container, any exposed food, clean equipment, utensils and linens, and unwrapped single-service articles.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment- or utensil-washing or food-preparation areas. Employees shall use tobacco only in designated areas. An employee tobacco use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils, linens, unwrapped single-service articles, or other items needing protection.

(c) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food establishment.

(e) Handling prohibition. Except as specified in this paragraph, food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in section 20-21.28(f) of this Code. Food employees with assistance animals may handle or care for their assistance animals, and food employees may handle or care for fish in an aquarium or molluscan shellfish or crustacea in display tanks, if they wash their hands as specified in section 20-21.8(a) and (b) of this Code.

Sec. 20-21.10. Equipment and utensils.

(a) *Materials; general.* Multi-use equipment and utensils shall be designed, constructed and repaired with safe materials, including finishing materials; shall be corrosion-resistant and nonabsorbent; and shall be smooth, easily cleanable and durable under conditions of normal use. All equipment and utensils shall be maintained in good repair. Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturers' specifications. Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened. Single-service and single-use articles shall be made from clean, sanitary, safe materials. Equipment Materials that are used in the construction of utensils and food-contact surfaces of equipment and single-service and single-use articles utensils, and single-service articles shall not allow the migration of deleterious substances, or impart odors, color, or taste to, nor contribute to the contamination of food under normal use conditions. Except for single-service and single-use articles, these materials shall be sufficient in weight and thickness to withstand repeated cleaning and sanitizing and shall be resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(1) **Solder and pewter alloys containing lead.** If solder is used, it shall be composed of safe materials and be corrosion-resistant. Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface. Pewter alloys containing lead in excess of 0.05% may not be used as a food contact surface.

(2) **Wood, use limitations.**

a. Except as specified in subitems b through d of this item, wood and wicker may not be used as a food-contact surface. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in this subitem may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons. The use of wooden paddles used in confectionery operations for pressure scraping kettles during confectionary preparation at high temperatures is permitted. Wooden wicker baskets may be used for proofing of bread, provided the product is fully baked after proofing. The use of wood as a food-contact surface under other circumstances is prohibited. If cutting boards are used, they

shall be easily removable in order to facilitate cleaning. The use of wood or wood product shelving, storage racks, or dunnage racks in cold storage units is prohibited.

b. Hard maple or an equivalently hard, close-grained wood may be used for:

[1] Cutting boards, cutting blocks, bakers' tables, and utensils, such as rolling pins, donut dowels, salad bowls, and chopsticks; and

[2] Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.

c. Whole, uncut, raw fruits and vegetables and nuts in a shell may be kept in the wood shipping container in which they were received, until the fruits, vegetables, or nuts are used.

d. If the nature of the food requires the removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

[1] Untreated wood containers; or

[2] Treated wood containers if the containers are treated with a preservative that meets the requirements of TFER 229.165(a)(9)(D)(ii).

- (3) **Galvanized metal, use limitation.** Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food. ~~Plastics. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing, by normal dishwashing methods, and that meet the general requirements set forth in this subsection are permitted for repeated use.~~
- (4) **Mollusk and crustacea shells.** Mollusk and crustacea shells may be used only once as a serving container. Further reuse of shells for food service is prohibited. ~~If the shell is not the original shell from which the mollusk or crustacea was harvested, the shell must be sanitized as specified under section 20-21.11 of this Code prior to use. Use of shells that contain any evidence of debris or filth is prohibited.~~
- (5) **Single-service and single-use articles.** Reuse of single-service articles and single-use articles is prohibited.
- (6) **Canvas cloths.** With the exception of approved easily cleanable belts on equipment used for the conveying or shaping and conveying of bakery products in the precooked stage and napkins used when serving bread and rolls, use of canvas cloths or other cloth materials as food-contact surfaces is prohibited.
- (7) **Sponges.** Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.
- (8) **Gloves.** Single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food. They shall be used for no other purpose and discarded when interruptions occur in the operation or when damaged or soiled. Unless covered with a single-use glove, slash-resistant gloves and cloth gloves may not be used in direct

contact with ready-to-eat food unless the slash-resistant gloves have a smooth, durable and nonabsorbent outer surface. Slash-resistant gloves and cloth gloves may be used with food that is subsequently cooked.

(9) Lead in ceramic, china, and crystal utensils, use limitation. Ceramic, china, and crystal utensils and decorative utensils, such as hand-painted ceramic or china, that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits as specified in TFER 229.165(a)(3).

(10) Cast iron, use limitation. Cast iron may not be used for utensils or food-contact surfaces of equipment, except:

a. Cast iron may be used as a surface for cooking; or

b. Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

(b) *Design and fabrication; general.*

(1) All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices and finished to have smooth welds and joints. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops and skillets. Threads shall be designed to facilitate cleaning; ordinary 'V' type threads are prohibited in food-contact surfaces, except that in equipment such as ~~ice makers or~~ hot oil cooking equipment and hot oil filtering systems 'V' type threads shall be minimized.

(2) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. Lubricants with incidental food contact, if used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip or be forced into food or onto food-contact surfaces shall meet the requirements specified in 21 CFR 178.3570.

(3) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice, provided that the tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(4) Sinks and drain boards of utensil-washing sinks and dishwashing machines shall be self-draining.

(c) *Accessibility.* Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(1) Without being disassembled;

(2) By disassembling without the use of tools; or

- (3) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, and wrenches, ~~only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.~~

(d) ~~In-place cleaning.~~ Cleaned in place (CIP) equipment. ~~Equipment intended for in-place cleaning shall be so designed and fabricated that:~~

- (1) CIP equipment shall meet the characteristics specified in 20-21.10(a) of this Code and be so designed and fabricated that:

a. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;

b. (2) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

c. (3) The system is self-draining or capable of being completely evacuated ~~drained of~~ cleaning and sanitizing solutions and;

- (2) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

(e) Pressure spray cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

(f) Thermometers. Temperature and pressure measuring devices. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to $\pm 2^{\circ}\text{F}$ in the intended range of use if scaled only in Fahrenheit. ~~If an indicating thermometer a food temperature measuring device is scaled only in Celsius or dually scaled in Celsius and Fahrenheit, it shall be accurate to $\pm 1.8^{\circ}\text{F}$ 1°C in the intended range of use.~~ Temperature and pressure measuring devices shall be maintained in good repair and calibration. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. Food temperature measuring devices shall have a numerical scale, printed record, or digital readout in increments no greater than 2°F (1°C) in the intended range of use. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 1.5^{\circ}\text{C}$ in the intended range of use. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to $\pm 3^{\circ}\text{F}$ in the intended range of use. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used.

(g) Nonfood-contact surfaces. Surfaces of equipment not intended for contact with food that are exposed to splash or food debris or otherwise require frequent cleaning shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, readily accessible for cleaning, easily cleanable, and kept in good repair.

(h) Ventilation hoods. ~~Exhaust ventilation hoods systems and devices in food preparation and warewashing areas, including components such as hoods, fans, guards, and ducting, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping or draining into~~

food or onto ~~food-contact surfaces~~. food, equipment, utensils, linens, and single-service and single-use articles. Filters, or other grease extracting equipment, shall be readily removable for cleaning and replacement if not designed to be cleaned in place.

(i) *Existing equipment.* Equipment that complied with the former provisions of this article at the time of its installation but that does not fully meet all of the design and fabrication requirements of this section shall be deemed acceptable in that establishment as long as there is no change of ownership, if it is in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic, except that refrigeration units are subject to upgrade or replacement as required by TFER. See section 20-21.3(b)(9)b of this Code. Replacement equipment shall conform to this article and TFER.

(j) *Equipment installation and location; general.* Equipment, including ice makers and ice storage equipment, shall ~~and not~~ be located ~~under-beneath~~ exposed or unprotected sewer lines, water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

(k) *Table-mounted equipment.*

(1) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(2) Equipment that is fixed because it is not easily moveable shall be installed so that it is:

a. Spaced to allow access for cleaning along the sides, behind, and above the equipment;

b. Spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter or one-thirty-second inch; or

c. Sealed to adjoining equipment, walls or ceilings, if the equipment is exposed to spillage or seepage, is not spaced from adjoining equipment, walls or ceilings to allow access for cleaning, and requires no utility connections.

For purposes of this item, equipment is readily movable if it is portable, mounted on gliders, rollers, wheels, or casters, or provided with a mechanical means to safely be tilted for cleaning; and requires no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit allow the equipment to be moved for easy-cleaning cleaning of the equipment and adjacent area.

This subsection does not apply to shelving units, refrigeration units and freezer units used for consumer display in retail store shopping areas, if the floor under the units is kept clean.

~~(2) Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units and between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.~~

(l) *Floor-mounted equipment.*

(1) Floor-mounted equipment, unless readily movable, shall be:

- a. Sealed to the floor;
- b. Installed on a raised platform of concrete or other smooth masonry in a way that meets all requirements for sealing or floor clearance; or
- c. Elevated on legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor and equipment if no part of the floor under the mixer is more than six inches from cleaning access.

For purposes of this ~~subsection item~~, equipment is readily movable if it is mounted on wheels or casters and it has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

This ~~subsection item~~ does not apply to shelving units, refrigeration units and freezer units used for consumer display in retail store shopping areas, if the floor under the units is kept clean.

- (2) Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units and between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(m) *Plumbing fixture installation.* Plumbing fixtures, including compartment type utensil-and-food sinks, hand-washing sinks and mop or utility sinks, shall be installed to preclude splashes from running down mounting surfaces behind and adjacent to the fixture. Acceptable installation methods include a liquid tight seal between fixture and mounting surface, insertion into a precut counter, table or cabinet with a perimeter seal or any other effective method. All materials shall be safe, smooth, impervious and easily cleanable.

(n) *Aisles and working spaces.* Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

(o) Kick plates, removable. Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

- (1) Removable by one of the methods specified under subsection (c) of this section or capable of being rotated open; or
- (2) Removable or capable of being rotated open without unlocking equipment doors.

(p) Molluscan shellfish tanks.

- (1) Except as specified under item (2) of this subsection, molluscan shellfish life support system display tanks may not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.
- (2) Molluscan shellfish life-support system display tanks may be used to store and display shellfish that are offered for human consumption, if they are operated and maintained in accordance with a HACCP plan that:

- a. Is submitted by the permit holder and approved by the department as specified under section 20-19(e) of this Code; and
- b. Ensures that:
 - [1] Water used with fish other than molluscan shellfish does not flow into the molluscan tank;
 - [2] The safety and the quality of the shellfish as they were received are not compromised by the use of the tank; and
 - [3] The identity of the source of the shellfish is retained as specified under section 20-21.1(b)(2) of this Code, and the source information is displayed with the shellstock as required in TFER 229.164(c)(8).

Sec. 20-21.11. Equipment and utensil cleaning and sanitation.

(a) *Cleaning frequency.*

- (1) Tableware shall be washed, rinsed and sanitized after each use.
- (2) To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.
- (3) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and food-contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation. Equipment food contact surfaces and utensils shall be cleaned:
 - a. Before each use with a different type of raw animal food such as beef, fish, pork or poultry, ~~unless raw animal foods that require higher cooking temperatures are prepared after foods that require lower cooking temperatures;~~ the food contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified in Table 20-21.4-1 of this Code than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.
 - b. Each time there is a change from working with raw foods to working with ready-to-eat foods;
 - c. Between uses with raw fruits or vegetables and with potentially hazardous foods; and
 - d. Before using or storing a food temperature measuring device.
- (4) Except as specified in item (5) of this subsection, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours.

(5) Surfaces of utensils and equipment contacting potentially hazardous foods may be cleaned less frequently than every four hours if:

- a. In storage, containers of potentially hazardous food and their contents are maintained at temperatures specified under section 20-21.2(a) of this Code and the containers are cleaned when they are empty;
- b. Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in Table 20-21.11 of this Code; and:

[1] The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

TABLE 20-21.11

<u>Temperature</u>	<u>Cleaning Frequency</u>
<u>41°F (5.0°C) or less</u>	<u>24 hours</u>
<u>> 41°F - 45°F (>5.0°C - 7.2°C)</u>	<u>20 hours</u>
<u>> 45°F - 50°F (>7.2°C - 10.0°C)</u>	<u>16 hours</u>
<u>> 50°F - 55°F (>10.0°C - 12.8°C)</u>	<u>10 hours</u>

[2] The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment;

c. Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified under section 20-21.2(a) of this Code, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;

d. Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified in section 20-21.2(a) or 20-21.3(c) 2 or 20-21.5(a) of this of this Code;

e. Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator, and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

f. The cleaning schedule is approved based on consideration of:

[1] The characteristics of the equipment and its use;

[2] The type of food involved;

[3] The amount of food residue accumulation; and

[4] The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

g. In-use utensils are intermittently stored in a container of water in which the water is maintained at 135°C (57°C) or more and the utensils and container are

cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(4)(6) The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems equipment if it is cleaned as specified in subsection (f) of this section. The food-contact surfaces of all cooking equipment shall be kept free of crusted grease deposits and other accumulated soil.

(5)(7) Nonfood-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(8) Dry cleaning.

a. If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.

b. Cleaning equipment used in dry cleaning food contact surfaces may not be used for any other purpose.

c. Except when dry cleaning methods are used as specified in subitems a and b of this item, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:

[1] At any time when contamination may have occurred;

[2] At least every 24 hours, for iced tea dispensers and consumer self-service utensils, such as tongs, scoops, or ladles;

[3] Before restocking consumer self-service equipment and utensils, such as condiment dispensers and display containers; and

[4] In equipment such as ice bins, beverage dispensing nozzles, enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

[a] At a frequency specified by the manufacturer; or

[b] Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

(6)(9) Once used for tasting food that is to be sold or served, a spoon or other utensil may shall not be reused until it has been cleaned and sanitized.

(10) A dishwashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified in section 20-21.12(b) of this Code shall be cleaned:

a. Before use;

b. Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

c. If used, at least every 24 hours.

(11) If a utensil-washing sink is used to wash wiping cloths, wash produce, or thaw foods, the sink shall be cleaned as specified under item (10) of this subsection before and after each time it is used to wash wiping cloths, wash produce or thaw foods. Sinks used to wash or thaw food shall be sanitized as specified under section 20-21.12(e) of this Code before and after the sink is used to wash produce or wash food.

(12) A utensil-washing sink may not be used for handwashing, as specified in section 20-21.8(b) of this Code, or dumping mop water.

(13) Equipment, food-contact surfaces, and utensils shall be clean to sight and touch.

(b) *Sinks.* Each food establishment shall have a three-compartment sink in addition to the hand-washing sinks required under section 20-21.19 of this Code except that:

(1) A mobile food unit may have a two-compartment sink; and

(2) A food establishment that has a two-compartment sink that was installed before three-compartment sinks were required under this article may continue to use the two-compartment sink until the sink becomes worn and requires replacement, the establishment changes ownership or the kitchen is remodeled, if:

a. The establishment demonstrates that it has an acceptable procedure for utensil sanitization; and

b. The establishment either does not use tableware or provides single-service tableware to its patrons.

(3) No utensil-washing sink shall be required in a packaged-food-only food establishment or where otherwise not required based on standard operating procedures as approved by the department.

Each compartment of each sink shall be provided with hot and cold running water. Each compartment of any sink required by this article shall not be less than 15 inches in length, 15 inches in width, and 12 inches in depth, unless the operator of the food establishment can demonstrate the ability to totally immerse and sanitize all utensils and equipment in the existing utensil-washing sink or unless other suitable equipment is provided for washing, rinsing and sanitizing the utensils and equipment. A utensil-washing sink approved for the immersion and sanitization of the establishment's utensils that measures less than 15 inches in length and width, and 12 inches in depth shall only be approved so long as all utensils found on the premises of the food establishment can be demonstrated to be totally immersed and sanitized. All sinks must comply with plumbing regulations as set forth in section 20-21.17 of this Code. Sink compartments shall have rounded internal angles and be free of sharp corners or crevices. Any sink required by this article for a mobile food unit used by a vendor licensed under article IX of chapter 32 of this Code or for a fixed location mobile food unit shall be of an adequate size so as to permit the total immersion of all utensils used on the unit as determined by the health officer.

(c) *Wiping cloths.*

- (1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.
- (2) Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section 20-21.12(e)(2) through (6) of this Code and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
- (3) Moist cloths used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section 20-21.12(e)(2) through (6) of this Code and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

Sec. 20-21.12. Manual cleaning and sanitizing.

(a) A three-compartment sink shall be used if washing, rinsing and sanitization of equipment or utensils is done manually, except where a three-compartment sink is not required under section 20-21.11(b) of this Code, in which case the procedure may be performed in the two-compartment sink.

(b) Drain boards, utensil racks or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(c) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

(d) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing shall be conducted in the following sequence:

- (1) Sinks shall be cleaned prior to use; then
- (2) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean and maintained at a temperature of at least 110°F (43°C) or the temperature specified on the cleaning agent manufacturer's label instructions. When used for utensil washing, the wash compartment of a sink, dishwashing machine, or wash receptacle of alternative manual utensil-washing equipment as specified in TFER 229.165(g)(2)(c) shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agents according to the cleaning agent's manufacturer's label instructions.
- (3) ~~Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; then~~ Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or detergent sanitizer solution by using one of the following procedures:
 - a. Use of a distinct, separate water rinse after washing and before sanitizing if using: a three-compartment sink or alternative manual utensil-washing equipment equivalent to a three-compartment sink as specified in TFER 229.265(g)(2)(C); or a three-step washing, rinsing, and sanitizing procedure in a mechanical equipment washing system for CIP equipment;
 - b. Use of a detergent-sanitizer as specified under section 20-21.12(h) of this Code if using;

[1] Alternative manual utensil-washing equipment that is approved for use with a detergent-sanitizer as specified in TFER 229.265(g)(2)(C); or

[2] A mechanical equipment washing system for CIP equipment;

c. Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two-compartment sink operation;

d. If using a dishwashing machine that does not recycle the sanitizing solution as specified in subitem e of this item or alternative manual utensil-washing equipment such as sprayers, use of a nondistinct water rinse that is:

[1] Integrated in the application of the sanitizing solution; and

[2] Washed immediately after each application; or

e. If using a dishwashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

(4) Equipment and utensils shall be sanitized in the third compartment in a sanitizing solution that is maintained clean according to one of the methods included in items (1) through (6) of subsection (e) below.

(e) The food-contact surfaces of all equipment and utensils shall be sanitized either manually or mechanically by use of one of the following methods:

(1) Immersion for at least 30 seconds in clean, hot water at a temperature of at least 171°F (77°C);

(2) Immersion in a chlorine solution in a manner that complies with the following:

Minimum Concentration (mg/L) ppm	Minimum Temperature F° (C°)		Exposure Time (seconds)
	pH 10 or less	pH 8 or less	
25	120 (49)	120 (49)	10
50	100 (38)	75 (24)	7
100	55 (13)	55 (13)	10

(3) Immersion in an iodine solution in a manner that complies with the following:

Minimum Concentration (mg/L) ppm	Minimum Temperature F° (C°) pH 5 or less	Exposure Time (seconds)
12.5 – 25	75 (24)	30

- (4) Immersion in a quaternary ammonium compound solution in a manner that complies with the following:

Minimum Concentration ppm (mg/L)	Minimum Temperature F° (C°)	Exposure Time (seconds)
According to the manufacturer's label*	75 (24)	According to the manufacturer's label

*Must be approved and registered with the United States Environmental Protection Agency at a strength and for a period of time as stated on the official approved label, and shall meet the criteria for chemical sanitizers and other chemical antimicrobials as specified in 21 CFR 178.1010, Sanitizing Solutions.

- (5) Immersion in other solutions of the chemicals specified in items (2) through (4) above, if it can be demonstrated that sanitization is achieved and that the solution is approved by the department;
- (6) Immersion in other chemical sanitizers, if approved by the department and applied in accordance with the manufacturer's use directions included in the labeling;
- (7) Treatment with steam free from harmful materials or additives, in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
- (8) Rinsing, spraying, or swabbing with a chemical sanitizing solution at the strength required for that particular sanitizing solution under items (2) through (6) above, in the case of equipment too large to sanitize by immersion.

(f) When hot water is used for sanitizing, the following facilities shall be provided and used:

- (1) An integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 171°F (77°C);
- (2) Dish baskets or racks sized and designed to permit complete immersion of the tableware, kitchenware, and equipment in the hot water; and
- (3) A numerically scaled indicating thermometer accurate to ±3°F if scaled in Fahrenheit only, convenient to the sink for frequent checks of water temperature. If the water temperature measuring device is scaled in Celsius only or dually scaled in Celsius and Fahrenheit, it shall be designed to be easily readable and accurate to ±2.7°F (1.5°C) in the intended range of use.

(g) When chemicals are used for sanitization, a test kit or other device that accurately measures the concentration of the solution in parts per million or milligrams per liter shall be provided and used.

(h) If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same agent as used in the washing step. Those food establishments using a two-compartment sink as approved under sections 20-21.11 and 20-21.12 of this Code shall use a detergent sanitizer or shall sanitize food-contact surfaces using hot water as specified under section 20-21.12(e)(1) of this Code.

Sec. 20-21.13. Mechanical cleaning and sanitizing.

(a) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. The machines and devices shall be properly installed and maintained in good repair. Mechanical dishwashing machines shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicated the machine's design and operating specifications including the:

- (1) Temperatures required for washing, rinsing, and sanitizing;
- (2) Pressure required for the fresh water sanitizing rinse, unless the machine is designed to use only a pumped sanitizing rinse; and
- (3) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

Machines and devices shall be operated in accordance with the machine's data plate and other manufacturers' instructions, and Utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, and wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained. A mechanical dishwashing machine installed after the * shall be equipped to automatically dispense detergents and sanitizers and shall incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

(b) Mechanical dishwashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure at a location in the supply line immediately before the point where the water enters the dishwashing machine. The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 pounds per square inch (100 kilopascals) nor more than 25 pounds per square inch (170 kilopascals) measured in the water line immediately adjacent to the final rinse control valve. If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve. A one-quarter-inch psi valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water. Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 7 kilopascals (1 pound per square inch) or smaller and shall be accurate to ± 14 kilopascals (± 2 pounds per square inch) in the 100 - 170 kilopascals (15-25 pounds per square inch) range. This subsection does not apply to a dishwashing machine that uses only a pumped or recirculated sanitizing rinse.

(c) Machine or water line mounted numerically scaled indicating thermometers accurate to $\pm 3^{\circ}\text{F}$ shall be provided to indicate the temperature of the water in each wash and rinse tank of the machine and the temperature of the water as it enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank ~~final rinse water as it enters the manifold.~~ Thermometers dually scaled in Celsius and Fahrenheit may alternatively be provided if designed to be easily readable and accurate to $\pm 2.7^{\circ}\text{F}$ (1.5°C) in the intended range of use. Water temperature measuring devices on mechanical dishwashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1°C or 2°F in the intended range of use.

(d) Rinse-water tanks shall be protected by baffles, curtains or other effective means to minimize internal cross contamination of the solutions in wash and rinse tanks, the entry of wash water into the

* Editor shall insert the effective date of the adopting Ordinance.

~~rinse water.~~ Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturer's specification labels attached to the machines.

(e) Drain boards shall be provided, ~~and shall be~~ of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization, ~~and shall be~~ so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

(f) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being cleaned in a dishwashing machine unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in such a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that ~~permits free draining the racks, trays, baskets or conveyors may drain freely.~~

(g) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used provided that:

- (1) The temperature of the wash water shall not be less than 120°F (49°C);
- (2) The wash water shall be kept clean;
- (3) Chemicals added for sanitization purposes shall be automatically dispensed;
- (4) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturers' specifications for time, temperature, pH and concentration or the specifications stated in section 20-21.12(e)(2) through (6) of this Code;
- (5) The chemical sanitizing rinse water temperature for sanitizers listed in section 20-21.12(e)(2) through (6) of this Code shall be not less than the temperature applicable to that sanitizer shown therein. The chemical sanitizing rinse water temperature for sanitizers not listed in the table shall be not less than the temperature specified by the machine's manufacturer or 55°F (13°C), whichever is greater; and
- (6) Chemical sanitizers used shall be approved and a test kit or other device that accurately measures the concentration of the solution in parts per million or milligrams per liter shall be available and used.

(h) Machines using hot water for sanitizing and spray-type dishwashing machines may be used provided that wash water and pumped rinse water shall be kept clean and ~~water shall be~~ maintained at not less than the temperatures stated below:

- (1) Single-tank, stationary-rack, dual-temperature machine:

Cycle and Level	Temperature
Wash	150°F (66°C)
Final rinse	180°F (82°C)

Final rinse at the dish level	160°F (71°C)
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- (2) Single-tank, stationary-rack, single-temperature machine:

Cycle and Level	Temperature
Wash	165°F (74°C)
Final rinse at the dish level	165°F (74°C)

- (3) Single-tank, conveyor machine:

Cycle and Level	Temperature
Wash	160°F (71°C)
Final rinse	180°F (82°C)
Final rinse at the dish level	160°F (71°C)

- (4) Multiple-tank, conveyor machine:

Cycle and Level	Temperature
Wash	150°F (66°C)
Final rinse at the dish level	160°F (71°C)

- (5) Single-tank, pot, pan, and utensil washer:

Cycle and Level	Temperature
Wash	140°F (60°C)
Final rinse	180°F (82°C)
Final rinse at the dish level	160°F (71°C)

(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory ~~operation~~ operating condition. Wash and pump rinse temperatures ~~are~~ shall be measured in the respective tanks and final rinse temperature ~~is~~ shall be measured both at the entrance of the manifold and at dish level. Testing of the final rinse temperature will be done by means of a registering thermometer or heat sensitive indicating paper traveling through the final rinse chamber in the same manner as equipment and utensils, at the dish level ~~and~~ during a normal rinse cycle. The flow pressure of the fresh hot water sanitizing rinse in the dishwashing machine may not be less than 15 pounds per square inch (100 kilopascals) or more than 25 pounds per square inch (170 kilopascals) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve. Except for dishwashing machines that use only pumped or recycled sanitizing rinse, the machine shall be equipped with a pressure gauge or similar device that measures and displays the water pressure at a point in the supply line immediately before the point where the water

~~enters~~ entering the dishwashing machine. The temperature of fresh hot water sanitizing rinse as it enters the manifold may not be less than 165°F (74°C) nor more than 194°F (90°C) for a stationary rack, single temperature machine, and for all other machines, not less than 180°F (82°C) nor more than 194°F (90°C).

(j) Drying and drying agents criteria. After sanitization, all equipment and utensils shall be air-dried. Use of towels is prohibited. Drying agents used in conjunction with manual or mechanical sanitization shall meet the requirements of TFER 229.168(f)(4).

(k) The maximum temperature specified under subsections (g)(1) and (h) of this section do not apply to a high pressure temperature system with wand-type, hand-held, spraying devices used for in-place cleaning and sanitizing of equipment such as meat saws.

Sec. 20-21.14. Equipment and utensil storage.

(a) *Handling.* Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, and plates shall be handled without contact with inside surfaces or with surfaces that contact the user's mouth. Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

(b) *Storage.*

- (1) Cleaned and sanitized utensils and movable equipment shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or potable water lines except for automatic fire protection sprinkler heads that may be required by law.
- (2) Utensils and equipment shall be air-dried before being stored or shall be stored in a self-draining position. Utensils and equipment may not be cloth-dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.
- (3) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.
- (4) ~~If presetting is practiced, all unprotected, unused, preset tableware shall be collected for washing and sanitizing after the meal period; and after any place at a table or counter is occupied. If tableware is preset:~~
 - a. It shall be protected from contamination by being wrapped, covered, or inverted;
 - b. Exposed, unused settings shall be removed when a consumer is seated;
 - c. Exposed, unused settings shall be cleaned and sanitized before further use if the settings are not removed when a consumer is seated.

(c) *Single-service articles.*

- (1) Single-service and single-use articles shall be stored at least six inches (15 cm) above the floor on dollies, pallets, racks, and skids designed as specified under section 20-21.3(a)2b of this Code and shall be kept in closed cartons that protect them from contamination, except for automatic fire protection sprinkler heads that may be required by law.
- (2) Single-service and single-use articles shall be handled, displayed and dispensed in a manner that prevents contamination of surfaces that may come in contact with food or with the mouth of the user.
- (3) Single-service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination and to present the handle of the utensil to the employee or consumer.
- (4) Single-service and single-use articles shall be used only once.
- (5) Except as specified under subsection (c)(3) of this section, single-service articles that are intended for contact with the mouth of the user shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

(d) *Prohibited storage area.* The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited. Except as specified in subsection (e) of this section, the storage of food equipment, utensils, laundered linens, and single-service and single-use articles in locker rooms, toilet rooms, vestibules, garbage rooms, or mechanical rooms, under sewer lines that are not shielded to intercept potential drips, under open stairwells, or under other sources of contamination is prohibited.

(e) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

Sec. 20-21.15. Water supply.

(a) *General.* Enough potable water for the needs of the food establishment shall be provided from a source constructed and operated according to all applicable laws.

(b) *Bottled water.* Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(c) *Water under pressure.* Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water. If hot water is used, it shall be at least 110°F (43°C) except as specified in sections 20-21.12(d)(2) and 20-21.19(b) of this Code. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demand throughout the food establishment. No food establishment shall operate without being provided with hot and cold running water.

(d) *Steam.* Steam used in contact with food or food-contact surfaces shall be free from any harmful materials or additives.

(e) *Water fountains.* Water fountains shall be constructed and installed according to all applicable laws and maintained clean and in good repair.

(f) *Ice manufacture.* Ice shall be made from water meeting the requirements of this section in an approved ice-making machine or plant that is located, installed, operated, cleaned, and maintained so as to prevent contamination of the ice, or shall be obtained from a source approved by the health officer. Ice manufacturing is food preparation; therefore, the location of the ice making equipment must comply with relevant sections of this article.

(g) *Ice crushers.* If ice crushers are used, they shall be maintained in a clean condition and shall be covered when not in use.

(h) *System flushing and disinfection.* A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

(i) *Nondrinking water.* A nondrinking water supply shall be used only if its use is approved by the regulatory authority. Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, fire protection, and irrigation.

Sec. 20-21.16. Sewage.

All sewage, including liquid waste, shall be disposed of by a public sewage system or by a sewage disposal system constructed and operated according to all applicable laws. Non-water-carried sewage disposal facilities are prohibited, except as allowed for temporary food service establishments under section 20-23 of this Code.

Sec. 20-21.17. Plumbing.

(a) *General.* Plumbing shall be sized, installed, and maintained according to applicable laws. There shall be no cross-connection between the potable water supply and any nonpotable or questionable water supply or any source of pollution through which the potable water supply, might become contaminated.

(b) *Nonpotable water system.* A nonpotable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to all applicable laws and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

~~(c) *Backflow.* The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch). A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device. A backflow prevention device shall be located so that it can be serviced and maintained. A hose shall not be attached to a faucet unless a backflow prevention device is installed.~~

(1) ***Backflow prevention device, when required.*** A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bib if a hose is attached or on a hose bib if a hose is not attached and backflow prevention is required by law by:

- a. Providing an air gap as specified in the introductory paragraph of this subsection; or
- b. Installing an approved backflow prevention device as specified in the introductory paragraph of this subsection.

(2) Backflow prevention device, carbonator.

- a. If not provided with an air gap as specified in the introductory paragraph of this subsection, a double check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 25.4 mm (100 mesh to 1 inch) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.
- b. A single or double check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified in the introductory paragraph of this subsection.

(d) *Grease traps.* Grease traps shall be located to be easily accessible for cleaning, operation, and maintenance. Grease traps shall be of an approved type and in an approved location outside the establishment wherever practical.

(e) *Garbage grinders.* If used, garbage grinders shall be installed and maintained according to all applicable laws.

(f) *Drains.* Except for existing properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed.

(g) Other liquid wastes and rainwater. Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

Sec. 20-21.18. Toilet facilities.

(a) *Toilet installation.* There shall be at least the minimum number of toilet facilities as required by applicable laws. Toilet facilities shall be installed according to all applicable laws, shall be conveniently located, and shall be accessible to employees at all times. Except for food establishments located in a shopping mall, where toilet facilities are located within the mall, in any new or extensively remodeled food establishment, toilet facilities for use by employees shall be located within the food establishment and shall have one or more entrances that may be accessed from the inside of the establishment.

(b) *Toilet design.* Toilets and urinals shall be designed to be easily cleanable.

(c) *Toilet rooms.* Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance except that this requirement does not apply to a toilet room that is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall or stadium-type facilities. Toilet facilities, including vestibules, shall be kept clean and in good repair and free of objectionable odors. Toilet rooms shall not open directly into any room in which food is prepared or utensils are washed. Toilet rooms in facilities providing custodial care of preschool age children need not have self-closing doors, nor must the doors be kept closed if other toilet rooms are provided for exclusive use of employees and the doors of the employee use toilet rooms are self-closing and kept closed. ~~Hand-washing signs shall be posted in each toilet room used by employees.~~

(d) *Toilet fixtures.* Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one covered waste receptacle.

Sec. 20-21.19. Hand-washing sinks generally.

(a) *Hand-washing sink installation.* There shall be at least the minimum number of hand-washing sinks as required by applicable laws. If approved and capable of removing the types of soils encountered in the food operations involved, automatic hand-washing facilities may be substituted for hand-washing lavatories in a food establishment that has at least one hand-washing sink. Hand-washing sinks shall be installed according to all applicable laws and located to permit convenient use by all employees in food preparation areas, food dispensing areas, and utensil-washing areas. Hand-washing sinks shall be accessible to employees at all times. Hand-washing sinks shall also be located in toilet rooms or vestibules. A hand-washing sink may not be used for purposes other than hand-washing as specified in section 20-21.8(b) of this Code. Sinks used for food preparation or washing equipment or utensils shall not be used for hand-washing.

(b) *Hand-washing sink faucets.* Each hand-washing sink shall be ~~provided with hot, at least 110°F (43°C),~~ equipped to provide water at a temperature of 100°F (38°C) and cold water tempered by means of through a mixing valve or combination faucet. Any self-closing, slow-closing or metering faucet used shall be designed to provide a flow of water for at least 20 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited. Hand-washing sinks in facilities providing custodial care for preschool age children that are used only by the children may provide only cold running water.

(c) *Hand-washing sink supplies.* A supply of hand-cleansing liquid, powder, or bar soap ~~soap or detergent~~ shall be available at each hand-washing sink or group of 2 adjacent hand-washing sinks. Each hand-washing sink or group of adjacent sinks shall be provided with ~~A supply of sanitary individual, disposable towels; a continuous towel system that supplies the user with a clean towel; towels-~~ towels or a hand-drying device providing heated air. ~~shall be conveniently located near each hand-washing sink.~~ Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand-washing facilities.

(d) *Hand-washing sink maintenance.* Hand-washing sinks, soap dispensers, hand-drying devices, and all related fixtures shall be kept clean and in good repair.

(e) *Automated hand-washing.* Use of automated hand-washing equipment acceptable to the department can be substituted for the above procedures, provided the equipment is installed and operated in accordance with the manufacturer's instructions.

(f) *Hand-washing aids and devices, use restrictions.* A sink used for food preparation or utensil-washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the hand-washing aids and devices required for a hand-washing sink as specified in subsection (c) of this section.

(g) *Hand-washing signage.* A sign, icon, or poster that notifies food employees to wash their hands shall be provided at all hand-washing sinks used by food employees and shall be clearly visible to food employees.

Sec. 20-21.20. Garbage and refuse.

(a) *Containers.*

- (1) Garbage, recyclables, returnables, and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line the containers, and they may be used for storage inside the food establishment.
- (2) Containers used in food preparation and utensil-washing areas shall be kept covered after they are filled.
- (3) Containers stored outside the establishment and dumpsters, compactors, ~~and compactor systems,~~ receptacles and waste handling units for refuse, recyclables, and returnables shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.
- (4) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.
- (5) Soiled receptacles and waste handling units for refuse, recyclables, and returnables ~~containers~~ shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents attraction. Each ~~container~~ receptacle shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles or food preparation areas. Suitable ~~facilities~~ cleaning implements and supplies such as high pressure pumps, hot water and detergent or steam shall be provided as necessary for effective cleaning of containers, receptacles, and waste handling units for refuse, recyclables, and returnables, and used for washing containers. Receptacles and waste handling units for refuse, returnables and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. ~~In operations where dumpsters or compactors are used, cleaning and the facilities accompanying the cleaning may be provided by the waste disposal contractor, on or off the premises. If approved, off-premises-based cleaning services may be used.~~ However, it is the responsibility of the owner, operator, manager, or other person in charge to see that the contractor fulfills the requirements of this section.

(b) *Storage.*

- (1) Garbage, recyclables, returnables, and refuse on the premises shall be stored in a manner to make it inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.
- (2) Storage rooms for refuse, garbage, recyclables, and returnables, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof, and shall be large enough to store the garbage and refuse containers that accumulate.
- (3) Outside storage areas or enclosures shall be constructed of durable and cleanable material and shall be large enough to store the garbage, recyclables, returnables, and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters, ~~and compactor systems,~~ and waste handling units for returnables

and recyclables located outside shall be stored on or above a smooth durable surface of nonabsorbent material, such as sealed concrete or machine-laid asphalt, that is kept clean and maintained in good repair and sloped to drain.

(c) Disposal, frequency.

- (1) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.
- (2) Refuse, recyclables, and returnables shall be removed from the premises by way of portable receptacles that are constructed and maintained according to law or by a transport vehicle that is constructed, maintained, and operated according to law.
- (3) Facilities for disposal and recycling, community or individual facility. Solid waste not disposed of through the sewage system, such as through grinders and pulpers, shall be recycled or disposed of in an approved public or private community recycling or refuse facility or disposed of in an individual refuse facility, such as a landfill or incinerator, that is sized, constructed, maintained, and operated according to law.
- (4)(2) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with all applicable laws. Areas around incineration facilities shall be kept clean and orderly.

(d) Storage areas, redeeming machines, receptacles and waste handling units location.

- (1) An area designated for refuse, recyclables, returnables, and, except as specified in item (2) of this subsection, a redeeming machine for recyclables or returnables shall be located so that:
 - a. The designated area is separate from food, equipment, utensils, linens, and single-service and single-use articles; and
 - b. A public health hazard or nuisance is not created.
- (2) A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if:
 - a. Food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machine; and
 - b. A public health hazard or nuisance is not created.
- (3) The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent areas.
- (4) Units, receptacles, and areas designated for storage of refuse, recyclables and returnables shall be located as specified in item (1) of this subsection.

(e) Storing refuse, recyclables, and returnables. Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

(f) Areas, enclosures, and receptacles, good repair. Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(g) Outside storage prohibitions.

(1) Except as specified in item (2) of this subsection, refuse receptacles not meeting the requirements specified under section 20-21.20(a)(1) of this Code, such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue, may not be stored outside.

(2) Cardboard or other packaging material that does not contain food residues and that is waiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

(h) Maintaining refuse areas and enclosures. A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of items that are unnecessary to the operation or maintenance of the establishment, such as equipment that is nonfunctional or no longer used or clean.

Sec. 20-21.21. Insect and rodent control.

(a) Controlling pests, generally. Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents. The presence of insects, rodents, and other pests shall be controlled to minimize their presence within the physical facility and its contents and on the contiguous land or property under the control of the permit holder by:

(1) Routinely inspecting incoming shipments of food and supplies;

(2) Routinely inspecting the premises for the evidence of pests;

(3) Using appropriate methods of pest control, such as trapping devices or other means of pest control as specified under section 20-21.27 of this Code, if pests are found; and

(4) Eliminating harborage conditions.

(b) Openings. Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by filling or closing holes and other gaps along floors, walls, and ceilings; tight-fitting, self-closing doors, kept closed, closed windows, screening, properly designed and installed air curtains to control flying insects, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts and other openings to the outside shall be tight-fitting and free of breaks. Screening materials shall not be less than sixteen mesh to the inch (16 mesh to 25.4 mm). Exterior doors used as exits need not be self-closing if they are: solid and tight-fitting; designated by the fire protection authority that has jurisdiction over the food establishment for use only when an emergency exists; and limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use. Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

(c) *Insect control devices, design and installation.*

- (1) Devices that are used to electrocute flying insects and that may impel insects or insect fragments shall be:
 - a. Designed to have 'escape-resistant' trays; and
 - b. Installed so that the devices are not located over a food preparation area and so that dead insects and insect fragments are prevented from falling on or being impelled onto exposed food, clean equipment, utensils, linens and unwrapped single-service articles.
- (2) Devices used to trap insects by adherence may not be installed above exposed food, clean equipment, utensils, linens and unwrapped single-service articles.

(d) Removing dead or trapped birds, insects, rodents, and other pests. Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents the accumulation or attraction of pests and minimizes exposure to decomposing remains.

Sec. 20-21.22. Floors.

(a) *Floor construction.* The floors and floor coverings of all food preparation, food storage, and utensil-washing areas, and the floors of walk-in refrigerating units, dressing rooms, locker rooms and toilet rooms shall be constructed of smooth, durable materials such as sealed concrete, terrazzo, ceramic tile, vinyl, or plastic, or tight wood impregnated with vinyl or plastic, and shall be maintained in good repair. Nothing in this rule shall prohibit the use of antislip floor covering in areas where necessary for safety reasons. All floors and floor coverings shall be nonabsorbent, easily cleanable and kept clean.

(b) *Floor carpeting.* Carpeting, if used, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment- and utensil-washing areas, in food storage areas, and in toilet room areas. Floor carpeting shall be kept clean.

~~(c) *Prohibited floor covering.* The use of sawdust, wood shavings, peanut hulls, or similar material on the floors is prohibited. Except as specified in subsection (h) of this section, sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.~~

(d) *Floor drains.* Properly installed trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. The floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

(e) *Mats and duckboards.* Mats and duckboards shall be of nonabsorbent, grease-resistant materials and sized, designed, and constructed so as to be easily cleanable. Duckboards shall not be used as storage racks.

(f) *Floor junctures.* In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall not present an open seam of more than one-thirty-second of an inch.

(g) *Utility line installation.* Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments,

installation of exposed horizontal utility lines and pipes on the floor is prohibited. Utility service lines and pipes shall not be unnecessarily exposed on floors in those areas listed in section 20-21.23(b) of this Code.

(h) *Cleaning floors, dustless methods.* Except as specified in this paragraph, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

- (1) Without the use of dust-arresting compounds; and
- (2) In the case of liquid spills or drippage, with the use of small amounts of compounds such as sawdust or diatomaceous earth applied immediately before spot cleaning.

Sec. 20-21.23. Wall and ceilings generally.

(a) *Maintenance.* Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair and shall be kept clean.

(b) *Construction.* The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, food storage areas, food display areas, equipment-washing and utensil-washing areas, toilet rooms, and vestibules shall be light-colored, smooth, nonabsorbent, and easily cleanable except for ceilings over areas used only for beverage preparation and/or service. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface except in dry storage areas.

(c) *Retail food stores and warehouses.* The ceilings of consumer display areas where only packaged containerized food products, single-service articles or single-use articles are stored or displayed in retail food stores and the ceilings of bulk food storage areas in warehouses and retail food stores shall be light-colored, nonabsorbent, and easily cleanable.

(d) *Wall protection.* The walls within water closet compartments, walls within two feet of the front and sides of urinals, hand-washing sinks, utensil-washing sinks, food sinks, and mop or utility sinks, and walls subject to damage from moisture shall be provided to a height of at least four feet above the finished floor with a smooth, light-colored, impervious surface of a type not adversely affected by moisture or grease. The walls behind and adjacent to cooking equipment utilizing a ventilation hood, shall, from the floor to the base of the hood, have the same type of material as indicated above for plumbing fixtures. Materials utilized for wall protection shall be fiber-glass reinforced plastic (FRP), nonferrous metal, ceramic tile, plastic laminate or the equivalent for the purpose intended.

(e) *Exposed construction.* Except as allowed in subsection (c) above, studs, joists, and rafters shall not be exposed in areas listed in subsection (b) above. If exposed in other rooms, they shall be finished to provide an easily cleanable surface.

(f) *Utility line/duct installation.* Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in subsection (b) above. Service lines behind counters used only for beverage preparation may be exposed on the inside counter walls if necessary for service and if kept to a minimum. If exposed in rooms or areas allowed in subsection (c) above, air conditioning, ventilation or heating ducts shall be of smooth rigid metal and designed with a circular cross-section.

(g) *Attachments.* Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair. Attachments shall be kept clean.

(h) *Covering material installation.* Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

(i) *Cleaning physical facilities.*

- (1) **General.** Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. This requirement does not apply to cleaning due to a spill or other accidents. Floor, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.
- (2) **Utility facilities.** In new or extensively remodeled establishments and in those establishments not required to have a two- or three-compartment utensil-washing sink, at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for cleaning and for the disposal of mop water or similar liquid wastes. The use of hand-washing sinks, utensil-washing sinks, equipment-washing sinks, or food-preparation sinks for ~~this purpose is prohibited.~~ the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes is prohibited.

Sec. 20-21.24. Lighting.

(a) *General.* At least 50 foot-candles (540 lux) of light shall be provided at a surface where a food employee may be working with food or with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor. to all working surfaces and at least 30 foot-candles of light shall be provided to all other surfaces and equipment in food preparation, utensil-washing, and hand-washing areas, and in toilet rooms. At least 20 foot-candles (220 lux) of light shall be provided at a surface where food is provided for consumer self-service, such as buffets and salad bars, or where fresh produce or packaged foods are sold or offered for consumption and inside equipment such as reach-in and under-counter refrigerators and at a distance of 30 inches (75 mm) from above the floor in areas used for hand-washing, utensil-washing, and equipment and utensil storage and in toilet rooms. shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations. At least 10 foot candles (110 lux) of light shall be provided at a distance of 30 inches (75 cm) above the floor in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning.

(b) *Protective shielding.*

- (1) Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored. Except as specified in subitems a and b of this item, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles. Shielded, coated, or otherwise shatter-resistant bulbs need not be provided in areas used only for storing food and single-service articles in unopened packages if:

- a. The integrity of the packages cannot be affected by broken glass falling onto them; and
 - b. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.
- (2) Infra-red or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

Sec. 20-21.25. Ventilation.

(a) *General.* All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes. Ventilation systems shall be installed and operated according to all applicable laws and, when vented to the outside, shall not create a public health hazard or nuisance ~~an unsightly, harmful~~ or unlawful discharge. Heating, ventilation, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment or utensils.

(b) *Special ventilation.*

- (1) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials. Intake and exhaust air ducts shall be cleaned and filters changed so that they are not a source of contamination by dust, dirt, and other materials.
- (2) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.
- (3) Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease and condensation from collecting on walls and ceilings. When ventilation may result in the disposition of particulate matter or liquids within the ventilation system, ventilation hoods and ventilation equipment shall be equipped with effective, easily removable, easily cleanable filters located adjacent to the intake openings or the intake and exhaust openings of the ventilation system. The filters shall be cleaned at sufficient frequencies to prevent accumulations.
- (4) Except for dishwashing machines installed under counter tops, all commercial dishwashing machines using hot water for sanitization shall be provided with a ventilation hood, which shall be installed in the manner required by all applicable laws.
- (5) All cooking equipment, except microwave ovens, electric convection ovens of approved types, electric rice cookers, and ovens of approved types, shall be provided with a ventilation hood, which shall be installed in the manner required by all applicable laws.

Sec. 20-21.26. Dressing rooms and locker areas.

(a) *Dressing rooms and areas.* If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil-washing or storage.

(b) *Locker areas.* Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other ~~belongings~~ possessions. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

(c) *Cleanliness.* Dressing rooms or areas and any lockers therein shall be kept in a clean condition.

Sec. 20-21.27. Poisonous or toxic materials.

(a) *Materials permitted. Presence and use, restrictions, conditions of use.*

- (1) Only those poisonous or toxic materials necessary for the operation and maintenance of the establishment, the cleaning and sanitization of equipment and utensils, and the control of insects and rodents shall be present in food ~~service~~ establishments; provided, this requirement does not apply to packaged poisonous or toxic materials that are for retail sale. Restricted use pesticides specified in item (3)c of this subsection shall meet the requirements specified in 40 CFR 152, Subpart I, Classification of Pesticides.
- (2) Only those pesticides that have been properly registered and approved by appropriate governmental authorities for the purpose of maintaining food service establishments in a sanitary condition shall be used.

(3) *Use and application.*

a. Poisonous or toxic materials shall be used according to:

- [1] Applicable law and this ordinance;
- [2] Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use of the pesticide is allowed in a food establishment;
- [3] The conditions of certification, if certification is required, for the use of the pest control materials; and
- [4] Any additional conditions that may be established by the regulatory authority.

b. Poisonous or toxic materials shall be applied so that:

- [1] A hazard to employees or other persons is not constituted; and
- [2] Contamination, including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles, is prevented, and for a restricted use pesticide, this is achieved by:
 - [a] Removing the items;
 - [b] Covering the items with impermeable covers; or
 - [c] Taking other appropriate preventive actions; and
 - [d] Cleaning and sanitizing equipment and utensils after the application.

c. A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC 136(e), Certified applicator of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified applicator.

(b) Labeling of materials. Containers of poisonous or toxic materials and personal care items shall be prominently and distinctly labeled according to law for easy identification of contents. Each container shall ~~be bear~~ be bear a legible label labeled with the manufacturer's instructions for use. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

(c) Storage, separation of materials. ~~Poisonous or toxic materials consist of the following three categories:~~

- ~~(1) Insecticides and rodenticides;~~
- ~~(2) Detergents, sanitizers, and related cleaning or drying agents; and~~
- ~~(3) Caustics, acids, polishes, and other chemicals.~~

~~Each of these categories shall be stored and located to be physically separated from each other. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergent or sanitizers at utensil or dishwashing stations. Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles, which may be accomplished by:~~

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, or single-service or single-use articles. This item does not apply to equipment or utensil cleaners or sanitizers that are stored in utensil-washing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, or single-service or single-use articles.

(d) Use of materials, container prohibitions, poisonous or toxic material containers.

- (1) Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue, nor in a way that constitutes a hazard to employees or customers.
- (2) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.
- (3) ~~If rodenticides are used in areas where food is handled, prepared or packaged, approved bait boxes shall be used. Rodent bait shall be contained in a covered, tamper-resistant bait station.~~
- (4) Poisonous compounds, such as insecticides and rodenticides, in powder form, shall have a distinctive color so as not to be mistaken for food. A tracking powder pesticide may not be used in a food establishment. If used, a nontoxic tracking powder such as talcum or

flour may not contaminate food, equipment, utensils, linens, or single-service and single-use articles.

- (5) The re-use of empty poisonous or toxic material containers, other than those that can be recycled in an approved community recycling program, is prohibited.
- (6) ~~The re-use of empty food containers to store, transport or dispense poisonous or toxic materials is prohibited. A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.~~

(e) Personal medications. Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This section does not apply to medicines that are stored or displayed for retail sale. Medicines that are in a food establishment for the employee's use shall be labeled as specified in section 20-21.27(b) of this Code and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. Personal medications shall not be stored in food storage, preparation, or service areas. Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be (1) stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of employees' or children's medicines and (2) located on the lowest shelf, located so they are inaccessible to children.

(f) First aid supplies. First aid supplies that are kept in a food establishment for employee use shall be labeled as specified under section 20-21.27(b) of this Code and stored in a kit or a container that is located so as to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles, shall be stored in a way that prevents them from contaminating food and food contact surfaces.

(g) Other personal care items, storage. Except as specified in section 20-21.27(e) and (f) of this Code, employees shall store their personal care items in facilities as specified under section 20-21.26(b) of this Code.

Sec. 20-21.28. Premises, buildings, systems, rooms, fixtures, equipment, devices, and materials.

(a) *General.*

- (1) Food establishments and all parts of the property used in connection with operations of the establishments shall be kept free of litter and items that are unnecessary to the operation or maintenance of the establishment, such as equipment that is nonfunctional or no longer in use.
- (2) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt or with gravel or similar material effectively treated to facilitate maintenance and to minimize dust. These surfaces shall be graded to prevent pooling and kept free of litter.
- ~~(3) Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.~~
- ~~(3)~~(4) Equipment and utensils not in current use shall be stored in a clean and sanitary condition or removed from the premises.
- ~~(4)~~(5) The traffic of unnecessary persons through the food preparation and utensil-washing areas is prohibited.

- (5) Employees and other persons such as delivery and maintenance persons entering the food preparation, food storage, and warewashing areas shall comply with food safety rules.
- (6) Exterior surfaces of buildings and mobile food units shall be of weather-resistant materials and shall comply with applicable laws.
- (7) The physical facilities shall be maintained in good repair.

(b) *Living areas.* No operation of a food establishment shall be conducted in a private home that does not meet all applicable requirements of this article, or in any room used as living or sleeping quarters. Food service operations shall be completely separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

(c) *Laundry facilities.*

- (1) Laundry facilities in a food establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation of the food establishment. If the items are laundered on the premises, an electric, gas, or steam dryer shall be provided and used.
- (2) Separate rooms shall be provided for laundry facilities except that laundry operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.
- (3) If on-premises laundering is limited to wiping cloths intended to be used moist, or if wiping cloths are air dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, single-use articles, single-service articles, and wiping cloths, then a mechanical clothes washer and dryer need not be provided.

(d) *Linens and clothes storage.*

- (1) Clean linens shall be stored in a clean place and protected from contamination until used.
- (2) Soiled linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

(e) *Cleaning equipment storage.* Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, single-use articles, single-service articles or linens and shall be stored in an orderly manner to facilitate the cleaning of the storage location. After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

~~(f) *Animals. Prohibiting animals.* Live animals, including birds, and turtles, shall be excluded from within the food service operational premises and from immediately adjacent areas under the control of the food establishment. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs accompanying security or police officers and support animals accompanying persons with disabilities shall be permitted in dining areas and sales areas. Animals are not allowed to be on seats or tables.~~

- (1) Except as specified in item (2) of this subsection, live animals may not be allowed on the premises of a food establishment.

- (2) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:
- a. Edible fish or decorative fish in aquariums, shell fish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
 - b. Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
 - c. In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the individual with a disability, or service animals in training when accompanied by an approved trainer, if a health or safety hazard will not result from the presence or activities of the service animal;
 - d. Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:
 - [1] Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;
 - [2] Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and
 - [3] Dining areas including tables, counter tops, and similar surfaces are effectively cleaned before the next meal service; and
 - e. In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.
- (3) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result.

Sec. 20-22. Mobile food service.

(a) *General.* Mobile food units shall comply with all applicable laws, including the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation and may prohibit the sale of some or all potentially hazardous foods.

(b) *Notice of locations; permission.*

- (1) Prior to issuance of any initial or renewal medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit, shall submit to the department a list of locations where his mobile food unit will be in operation. An operator of a mobile food unit shall also give written notice two business days prior to beginning operations at or relocating operations to any location not previously included on the list of locations submitted to the department.

- (2) The owner of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit, to be operated on private property shall submit to the department proof of his ownership of the private property or a written statement including the name, address and telephone number of the property owner or authorized agent, granting permission for operation of the mobile food unit at the proposed location where his mobile food unit will be in operation. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or one of the principals prior to issuance of any initial or renewal medallion.
- (3) It shall be unlawful for an operator of a mobile food unit to be in operation on private property unless the owner of the mobile food unit is the owner of the private property or has submitted to the department a written statement, described in item (2) of this subsection, from the property owner or authorized agent, prior to beginning operations or relocating operations to that property. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.

(c) *Servicing records.* Upon request, the operator of a mobile food unit other than a restricted operations mobile food unit shall provide written proof that the mobile food unit has been serviced at an approved commissary on a daily basis. These servicing records shall be maintained in duplicate, with one copy kept in the mobile food unit and the other copy at the commissary used by the mobile food unit. Each record shall be kept and maintained for a period of two years from the date of servicing so that they are immediately available to the health officer for inspection and copying during normal working hours. The records shall be in a form prescribed by the health officer.

(d) *Standards and drawings.* The health officer shall not issue any permit/medallion for a mobile food unit other than a restricted operations mobile food unit as described in subsection (e) below, unless and until the operator of the mobile food unit has provided to the department:

- (1) A written standard operating procedure for each mobile food unit that must include provisions for:
 - a. The mobile food unit's water supply source and process;
 - b. The mobile food unit's waste water disposal site and process; and
 - c. Other servicing operations details; and
- (2) Two sets of drawings that must clearly specify and address the proposed layout, surface finish schedule, arrangement and construction material of the mobile food unit, and that must include, without limitation, the proposed layout, arrangement and sizes of plumbing fixtures and connections.

The provisions of this subsection shall not be applicable to renewals, provided that the applicant certifies in writing to the health officer that the previously provided procedures and plans are still valid.

(e) *Restricted operations.* A mobile food unit that serves no food other than:

- (1) Food that was prepared and packaged in individual servings at an approved commissary and transported and stored under conditions meeting the requirements of this article;

- (2) Beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment;
- (3) Potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant; and
- (4) Prepackaged individual serving frozen dessert items including, without limitation, frozen ice and ice cream novelty bars, cones and serving cups that have been packaged at a pasteurizing plant or other approved facility;

shall be regarded as a restricted operations mobile food unit and need not comply with requirements of this article pertaining to the necessity of potable water and sewage systems or to the cleaning and sanitation of equipment and utensils if the required equipment for cleaning and sanitation exists at its commissary, nor with the requirement that the servicing area be located in an enclosed building.

(f) *Identification of mobile food units.* Every mobile food unit must be readily identifiable by business name, printed, permanently affixed, and prominently displayed upon at least two sides of the units, in letters not less than three inches in height.

(g) *Commissary; general.* Mobile food units shall operate from a commissary or other fixed food service establishment that is constructed and operated in compliance with the requirements of this article and other applicable laws. Using a private residence as a commissary for a mobile food unit is prohibited.

The commissary servicing any mobile food unit other than a restricted operations mobile food unit shall be an approved and permitted food establishment at which the mobile food unit is supplied with fresh water, emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the mobile food unit utensil-washing sink.

Each mobile food unit other than a restricted operations mobile food unit shall return to the commissary at least once per each day of operation for the performance of all servicing operations. The use of liquid waste transport vehicles, otherwise known as vacuum trucks, for the removal and disposal of liquid waste resulting from mobile food unit operations is prohibited. Provided, however, that a fixed location mobile food unit operating exclusively in a permanent nonresidential building that is primarily used for other purposes, such as a retail shopping mall, office atrium, or hospital lobby, may utilize other means to fill water tanks and to drain and flush wastewater tanks if approved by the health officer.

(h) *Servicing area and operations.*

- (1) Servicing area. An enclosed service building separated from commissary operations shall be provided for supplying and maintaining mobile food units. Fixed location mobile food units authorized under this article and mobile food units licensed under article IX of Chapter 32 of this Code shall be stored in the servicing area except while in operation for food service and during transport to and from the service building. A fixed location mobile food unit that does not fully meet the foregoing storage requirements and is permitted on or before February 13, 2000, shall be exempt from this requirement provided that the operation continues under the same ownership and the permit and medallion is continuously renewed without lapse or termination and provided that the permit holder uses alternative storage arrangements that are approved by the health officer. The servicing area shall be at an approved location and constructed and operated in compliance with the requirements of this article.
- (2) Servicing operations.

- a. Potable water-servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.
- b. The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with section 20-21.16 of this Code. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies.
- c. Vehicle cleaning and in-place cleaning of nonfood-contact surfaces of equipment not requiring sanitization shall be done with potable water and shall be done in a manner that will not contaminate the vehicle's food storage or food preparation areas or equipment. If hoses are used in the cleaning process, they shall be kept off the floor or pavement, on racks or by other approved suitable means, and the system shall meet the requirements of section 20-21.17 of this Code. All cleaning areas shall be paved with a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt, which is sloped to drain toward an approved catch basin or floor drain where the liquid waste can be disposed of in accordance with the requirements of section 20-21.16 of this Code.

(i) *Items of sanitation.* In addition to complying with the requirements of this section, all mobile food units shall comply with the following items of sanitation:

- (1) *Item 1. Single-service articles.* Mobile food units shall provide only single-service articles for use by the consumer.
- (2) *Item 2. Water systems.* A mobile food unit requiring a water system shall have a potable water system under pressure. All water used in connection with the mobile food unit shall be from sources approved by the health officer. The water system shall include a potable water tank of not less than 30 gallons capacity for conventional mobile food units and not less than 5 gallons capacity for units used by a vendor licensed under Chapter 32, article IX of this Code and for fixed location mobile food units. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitization, and hand-washing, in accordance with the requirements of this article. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing and potable water tanks shall be constructed of materials meeting standards established by an American National Standards Institute (ANSI) or other approved accredited certification program and installed according to the requirements of this article. Connection to a water system at an operational location is prohibited.
- (3) *Item 3. Waste retention.* If liquid waste results from operation of a mobile food unit, it shall be stored in permanently installed retention tanks that are at least 15 percent larger than the water supply tank. A mobile food unit waste retention tank shall be sloped to an outlet that allows complete drainage of the tank during servicing operations. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion or at an operational location. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection

to preclude contamination of the potable water system. Connection to a sewerage system at an operational location is prohibited.

- (4) *Item 4. Garbage and refuse.* A mobile food unit shall have adequate and approved garbage and refuse storage facilities. Disposal shall be in accordance with section 20-21.20 of this Code.
- (5) *Item 5. Damage report.* Any accident involving a mobile food unit shall be reported within 24 hours of the time the accident occurred if the accident results in damage to the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being carried or any damage that results in a violation of this section. Reports shall be made by the holder of the mobile food unit medallion.
- (6) *Item 6. Operation capacity limited.* The owner/operator of a mobile food unit shall serve, store and display food and beverages on or in the mobile food unit itself and shall not attach, set up or use any other device or equipment intended to increase selling, serving or display capacity of the mobile food unit. It shall be unlawful for the owner/operator of a mobile food unit to provide any dining area for the customers of the mobile food unit.
- (7) *Item 7. Utilities connection.* Utility connections, if any, shall be limited to quick-connect electrical and telephone services. Utility connections for water, sewerage and gas are prohibited.

(j) *Special requirements for mobile food units used by licensed park vendors.* In addition to complying with the other applicable requirements of this chapter, a mobile food unit used by a vendor licensed under article IX of Chapter 32 of this Code, must meet the following additional requirements in order to qualify for issuance of a medallion:

- (1) *Item 1.* A unit shall not exceed four feet in width, eight feet in length and eight feet in height including the unit's shade umbrella. In the event of an emergency, the unit must be easily movable, controllable, and maneuverable by one person when the unit is fully loaded. A unit shall have at least two operable rubber or rubber-like wheels that are less than eight inches in diameter. The bottom of the unit shall be at least one foot from the ground. The unit shall be nonmotorized.
- (2) *Item 2.* Each unit shall have protective glass guards and a roof or a shade umbrella to protect against exposure to insects, rodents, dust, or other contamination. Each unit shall have ample space available on the sides of the unit to display the prices of food, the name and street address of the vendor, and the medallion issued under section 20-37 of this Code.
- (3) *Item 3.* Each unit shall have a litter receptacle attached to the unit available, clearly marked, and maintained for patron use. This litter receptacle shall have not less than a twenty-gallon capacity and shall be composed of a leak-proof, nonabsorbent material.
- (4) *Item 4.* The interior of a unit shall be equipped with cabinet units or compartments. All food-contact surfaces shall be smooth, easily accessible and cleanable. Unfinished or painted wood shall not be used as a food-contact surface. Units that will dispense beverages must be equipped to do so from a closed carbonation system or bulk dispensing units or to distribute packaged beverages.

(k) *Special requirements for fixed location mobile food units.* A mobile food unit that does not meet all criteria applicable to the permitting of a conventional mobile food unit may be permitted on a fixed location only basis, provided:

- (1) The unit complies with the same criteria stated in subsection (i) and in items (1), (2), (3) and (4) of subsection (j) above for units operated by licensed park vendors;
- (2) The unit shall be restricted to operation on the premises of one food establishment that holds a valid permit under this article, and the commissary serving the unit shall be located in that establishment; and
- (3) The commissary shall meet all applicable requirements of state law and city ordinances.

A fixed location mobile food unit that does not fully meet the requirements of item (1) of subsection (j) above and is permitted on or before February 13, 2000, shall be exempt from the requirements of item (1) of subsection (j) above provided that the operation continues under the same ownership and the permit and medallion is continuously renewed without lapse or termination.

A separate food dealer's permit shall be required for the operation of the commissary for fixed location mobile food units whether restricted or unrestricted if the person operating the unit is not the same person operating the food establishment in which it is situated. A separate medallion shall be required for each fixed location mobile food unit, regardless of whether the unit is being operated by the person who operates the food establishment premises where the unit is situated or another person. If the applicant for operation of the unit is not the operator of the food establishment, then he shall be required to furnish written proof that he has the permission of the person who operates the food establishment premises to utilize the unit and commissary on the premises. In the event that the permit issued under this article for the food establishment on whose premises the unit and its commissary are situated expires without timely renewal or is revoked or suspended, the unit's medallion and commissary permit, if any, shall automatically be suspended until and unless the permit for the food establishment is restored to valid status.

(l) *Alternatives; waivers.* The director of health and human services or any assistant or deputy director may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a mobile food unit. Any authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the director of health and human services or any assistant or deputy director may waive any requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the mobile food unit. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

(m) *Special requirements for use of LP-gas in mobile food units.* In addition to complying with the applicable requirements of this chapter, the operator of a mobile food unit in, on or in conjunction with which LP-gas is used to cook or otherwise prepare food shall obtain from the fire department a permit for use of LP-gas and LP-gas equipment for each mobile food unit and shall make the permit available for inspection and/or copying upon the request of any peace officer, fire department employee, or health officer.

Sec. 20-23. Temporary food service.

(a) *General.* A temporary food service establishment shall comply with the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment and may prohibit the sale of some or all potentially hazardous foods where the action is reasonably necessary to protect the public from ~~feed-borne~~ foodborne illness.

(b) *Restricted operations.*

- (1) This section is applicable whenever a temporary food service establishment is permitted, under the general requirements in this section, to operate without complying with all the requirements of this article.
- (2) Only those potentially hazardous foods requiring limited preparation shall be prepared.
- (3) ~~Potentially hazardous foods requiring limited preparation shall be served and maintained at the temperature of 41°F (5°C) or below or 140°F (60°C) or above in facilities that meet the requirements of this article. All food temperature requirements shall be met as pertained in sections 20-21.2 through 20-21.5 of this Code.~~

(c) *Items of sanitation.* All temporary food service establishments shall comply with the following items of sanitation:

- (1) **Item 1. Ice.** Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this article. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use food grade plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until used, and when used it shall be dispensed in a way that protects it from contamination.
- (2) **Item 2. Equipment.**
 - a. Equipment shall be located and installed in a way that facilitates cleaning the establishment and that prevents food contamination.
 - b. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for the equipment shall be provided.
 - c. All equipment, including hot/cold food storage facilities, shall be adequate in number and capacity to provide food temperatures as specified in section 20-21.2(a)(1) of this Code and must meet the requirements of this article regarding food storage and equipment design and fabrication.
 - d. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.
- (3) **Item 3. Single-service articles.** All temporary food service establishments that do not have effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.
- (4) **Item 4. Water.** ~~Enough p~~ Potable water from an approved source shall be made available in the a temporary food establishment for food preparation, cleaning and sanitizing utensils and equipment and for hand-washing. A heating facility capable of producing enough hot water for cleaning, sanitizing, and hand-washing purposes shall be provided. Water need not be under pressure but shall come from approved sources, which include:

commercially bottled drinking water, closed portable water containers, enclosed vehicular water tanks, on-premises water storage tanks, or piping, tubing or hoses connected to an approved source.

- a. An approved facility shall be provided for washing, rinsing, and sanitizing equipment and utensils. This facility must consist of at least three containers. Washing, rinsing, and sanitizing shall be conducted as specified in section 20-21.12(d) and (e) of this Code. Alternative manual warewashing equipment, such as receptacles that substitute for the compartments of a multi-compartment sink, may be used when there are special cleaning needs or constraints and the department has approved the use of alternative equipment.
 - b. ~~An approved facility shall be provided for employee hand-washing. This facility shall consist of at least warm, clean running water, soap, and individual paper towels. Hand-washing facilities shall include an insulated container with a spigot that can be turned on to allow potable, clean, warm water to flow, a wastewater container, soap, disposable towels, and a waste receptacle. Hand-washing facilities are not required if the only food items offered are commercially pre-packaged foods that are dispensed in their original containers.~~
- (5) **Item 5. Wet storage.** The storage of nonpackaged food in contact with water or ice is prohibited. The storage of packaged food in contact with water or undrained ice is prohibited.
 - (6) **Item 6. Waste.** Liquid and solid waste shall be disposed of in accordance with all applicable laws.
 - (7) **Item 7. Floors.** ~~Floors shall be provided in food preparation and food service areas and shall be made of concrete, tight wood, asphalt, or other similar cleanable material. If graded to drain, a floor may be concrete, machine-laid asphalt, dirt, or gravel if it is covered with mats, removable platforms, duckboards, or other suitable materials approved by the department that are effectively treated to control dust and mud.~~
 - (8) **Item 8. Walls and ceilings of food preparation areas.** Walls shall be required by the health officer unless he determines, based upon the circumstances, that walls are not needed to protect the public from ~~food-borne~~ foodborne illnesses. Walls and ceilings of food preparation areas shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather and other contaminating agents. When required, screening material used for walls, shall be at least 16 mesh to the inch.
 - (9) **Item 9. Food protection; general.** At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage or overhead drippage from condensation. Foods for self-service shall be protected from consumer contamination by the use of packaging, sneeze guards, or other devices.

(d) *Alternatives; waivers.* The health officer may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a temporary food service establishment. An authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the health officer may waive any

requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the temporary food service establishment. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

Sec. 20-24. Procedure when disease suspected among employees.

(a) ~~When~~ The health officer shall, when he has reasonable cause to believe that a food employee has possibly transmitted disease, may be infected with disease in a communicable form that is transmissible through food, or is affected with a boil, an infected wound or acute respiratory infection, he may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The health officer may require any or all of the following measures as he finds necessary to protect the public's health:

- (1) The immediate exclusion of the employee from all food establishments;
- (2) The immediate closing of the food establishment concerned until, in the opinion of the health officer, no further danger of disease outbreak exists;
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) ~~Adequate medical and laboratory examinations of the employee, of other employees, and of his and their body discharges; or~~ Securing of a confidential medical history of the employee suspected of transmitting disease or making other investigations, as deemed appropriate, and requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.
- (5) The implementation of special employee training for personnel of the establishment as provided in section 20-44 of this Code for the purpose of preventing the transmission of diseases.

(b) Based on the findings of the investigation as specified in this section and to control disease transmission, the health officer may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of hearing, or a hearing, if the order:

- (1) States the reasons for the restriction or exclusion that is ordered;
- (2) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
- (3) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request; and
- (4) Provides the name and address of the health officer to whom a request for an appeal hearing may be made. Upon request, a hearing shall be provided within 72 hours.

(c) The health officer shall release an employee from restriction or exclusion if:

- (1) On the request of an employer or the health officer, a food employee or a person seeking food handling employment is examined by a licensed physician and receives a signed certificate stating that the physical examination has been performed and that to the best of physician's knowledge, the person examined did not, on the date of examination:

a. Have a transmissible condition of a communicable disease;

- b. Have a local infection commonly transmitted through food handling;
 - c. Reside in a household in which there is a transmissible case of a communicable ~~food-borne~~ foodborne disease; or
 - d. Appear to be a carrier of the communicable ~~food-borne~~ foodborne disease-causing organism;
- (2) The employee was infected with *Salmonella typhi* and the food employee's stools are negative for *S. typhi* based on testing of at least three consecutive stool specimen cultures that are taken:
- a. Not earlier than one month after onset;
 - b. At least 48 hours after discontinuance of antibiotics; and
 - c. At least 24 hours apart.
- If one of the cultures taken is positive, repeat cultures are taken at intervals of one month until at least three consecutive negative stool specimen cultures are obtained;
- (3) The food employee was infected with *Shigella spp.* or *Escherichia coli 0157:H7* and the food employee's stools are negative for *Shigella spp.* or Shiga toxin-producing *E. coli 0157:H7* based on testing of two consecutive stool specimen cultures that are taken:
- a. Not earlier than 48 hours after discontinuance of antibiotics; and
 - b. At least 24 hours apart; or
- (4) The food employee was infected with hepatitis A virus and:
- a. Symptoms cease; or
 - b. At least two blood tests show falling liver enzymes.

Sec. 20-25. Construction, remodeling of food establishment generally.

(a) Wherever a food establishment or food establishment addition is constructed or remodeled and whenever an existing structure is converted to use as a food establishment, two sets of properly prepared plans and specifications for each construction, remodeling, or alteration shall be submitted to the health officer for approval before construction, remodeling, or alteration is begun. The plans and specifications shall indicate the proposed layout, arrangement, and construction materials of work areas, and the type of proposed fixed equipment and facilities. The health officer shall approve the plans and specifications if they meet the requirements of this article. No food establishment shall be constructed, remodeled, or altered except in accordance with plans and specifications approved by the health officer. If any changes are to be made concerning proposed layout, arrangement, and construction materials of work areas, and the type of proposed fixed equipment and facilities after the first set of approved plans and specifications have been delivered to the owner or contractor, the changes shall be shown on revised plans and specifications, ~~and which~~ shall be reviewed and approved by the health officer before the changes are made; ~~and then the approved changes shall appear on~~ be added to both original sets of plans and specifications.

(b) One set of the approved plans and specifications will be given to the owner or contractor responsible for the construction of the establishment. A second set of approved plans and specifications will remain on file with the health officer.

(c) Whenever plans and specifications are required under subsection (a) above to be submitted to the health officer, the health officer or his authorized representative shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this article.

(d) The requirements of this section shall be in addition to all applicable requirements of the Construction Code.

~~(e) The applicant shall pay to the department a nonrefundable plan review and inspection fee of \$50.00 for the review of plans and preoperational inspection required hereunder.~~

(e) The applicant shall pay to the department a nonrefundable plan review fee for the review of plans required hereunder. The plan review fee shall be paid before plans are reviewed and shall be based on the following schedule:

Project Valuation	Plan review fee
\$ 0.00 - \$7,000.00	\$25.00
\$7,001.00 - \$150,000.00	\$150.00
\$151,000.00 - \$200,000.00	\$200.00
\$201,000.00 - \$300,000.00	\$300.00
\$301,000.00 - \$500,000.00	\$400.00
\$501,000.00 - \$1,000,000.00	\$500.00
\$1,000,000.00 - \$5,000,000.00	\$600.00
More than \$5,000,000.00	\$700.00

In the event that construction, remodeling, or alteration began prior to approval of plans and specifications, the fees described in this subsection shall be doubled. In addition to the fees described in this subsection, there shall be a technology and administrative fee added to each plan review in the amount of \$10.00. This technology and administrative fee shall be payable at the time the plan review fee is paid.

(f) The applicant shall pay to the department a nonrefundable preoperational inspection fee of \$50.00 for each preoperational inspection required hereunder. In the event that the constructed, remodeled or altered space or area is occupied prior to the preoperational inspection approval, the nonrefundable inspection fee shall be \$100.00 for each preoperational inspection performed while the constructed, remodeled or altered space or area is occupied. No permit shall be issued or renewed if there are any outstanding preoperational fees.

Sec. 20-26. Notices required.

(a) *Heimlich maneuver.* Every food service establishment where space is designed or designated for eating purposes shall have posted in a conspicuous place, easily accessible to all employees, or to all customers or to both all employees and all customers, a sign graphically depicting the Heimlich maneuver for dislodging food from a choking person.

(b) *Presence of food service manager required.* Every food service establishment to which the provisions of division 3 of this article are applicable shall have posted in a conspicuous place, easily accessible to all employees, a notice that operation without a food service manager present is unlawful.

(c) *Foods containing any sulfite preservative.* Every food service establishment that sells or serves food containing any sulfite preservative shall provide notification of the use thereof to persons to whom the sulfite-containing food is sold or served by at least one of the following methods:

- (1) Posting a sign listing the foods containing any sulfite preservative sold or served by the establishment in a place conspicuous to all persons to whom food is served or sold in the establishment. The sign shall conspicuously state that the foods contain a sulfite preservative;
- (2) Listing each food containing any sulfite preservative on a menu or other written notice that is given to each person (other than children under the age of 12 accompanied by an adult) who buys or is served food in the establishment. The menu or other written notice shall clearly state that the foods containing a sulfite preservative do contain the substance; or
- (3) Providing written notice on a label affixed to the container or wrapper of food containing any sulfite preservative that the food does contain the substance.

(d) *Sanitation posters.* Within each kitchen of each food establishment there shall be conspicuously posted in an area accessible to all employees thereof a poster that describes basic sanitation methods including, but not limited to, those relating to cross-contamination and temperature control. This requirement shall not apply to mobile food units or temporary food service establishments.

(e) *Form of sign.* All signs, notices and listings provided or posted pursuant to this article shall conform to the design specified therefore by the director of public health, including the size, colors, wording and any other elements specified by the director. The department may prepare signs in Spanish, English and other languages as the need may warrant and make them available for purchase at a price equivalent to the production cost thereof.

Secs. 20-27--20-35.

Reserved.

DIVISION 2. PERMITS, MEDALLIONS, ETC.

Sec. 20-36. Food dealer's permit.

(a) Except as permitted in subsection (e) of this section, no person shall operate a food establishment, ~~temporary food service establishment, or other than a~~ mobile food unit, who does not possess a valid permit issued to him by the health officer. The permit shall be known as a "food dealer's permit". Only a person who complies with the requirements of this article shall be entitled to receive or retain a food dealer's permit. A food dealer's permit shall only be valid for the location specified thereon and may not be transferred from place to place. A food dealer's permit shall become void upon the closing of any sale of the establishment, ~~unless transferred pursuant to a pretransfer inspection conducted pursuant to subsection (e), below.~~ A valid permit shall be posted in view of the public in every food establishment and every temporary food service establishment. Permits for temporary food service establishments shall be issued for a period of time not to exceed 21 consecutive days. A temporary food dealer's permit shall not be required if:

- (1) The temporary food service establishment is operated by a person who holds a valid food dealer's permit issued under this article;
- (2) The operation of the temporary food service establishment is within the scope of his regulated and inspected activities as the holder of a food dealer's permit; and
- (3) All food is prepared inside of the permitted establishment by the holder of the valid food dealer's permit and then served outdoors on the same premises.

All food dealer's permits shall remain the property of the department.

(b) Any person desiring to obtain a food dealer's permit shall make written application for a permit on forms provided by the health officer. The application shall include the applicant's full name and post office address and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses; the location and type of proposed food processing or food service establishment; and the signature of the applicant. If the application is for a temporary food service establishment, the application shall be made at the department offices in person at least seven days prior to the beginning of temporary food service operations. No temporary food dealer's permit shall be granted unless the application also sets out the inclusive dates of the proposed operations, and the name, address, and telephone number of the owner or owners of the property where the temporary food service establishment is to be located, and attached to the application is a statement signed by the owner of the property or his authorized agent, stating that arrangements have been made for the proper disposal of all rubbish, trash, and garbage and for maintaining the property free from litter and nuisance during the total period of operation up to and including any clean up time required to remove all rubbish, trash, garbage, and litter resulting from the food service. A description of the arrangements and the attendant facilities must be included.

(c) Prior to approval of an application for a food dealer's permit or mobile food unit medallion, the health officer shall inspect the proposed establishment to determine compliance with the provisions of this article.

(d) The health officer shall issue a permit to the applicant if inspection reveals that the proposed food establishment complies with the requirements of this article.

~~(e) In the event of the sale of a licensed food establishment, the food dealer's permit may be transferred from the establishment seller to the buyer based upon a pretransfer inspection of the establishment by a health officer. Requests for transfer shall be made by filing a transfer application with~~

~~the health officer at least ten days prior to the closing of the sale of the establishment and shall include the same information specified for original permits in subsection (b), above. The health officer shall cause the establishment to be inspected and approve the permit transfer if the inspection reveals that the food establishment complies with the requirements of this article. A nonrefundable transfer inspection fee of \$50.00 shall be payable for a transfer application. The transferred permit shall be valid for the remaining life of the original permit.~~

~~(f) Any person desiring to operate a restricted warehouse may request in the application therefore that his food dealer's permit be issued on a basis limited exclusively to the operation of a restricted warehouse. If issued, the permit shall be designated 'restricted warehouse only' on the face of the permit. It shall be unlawful for any person to cause, suffer or permit the receipt, keeping or distribution of any potentially hazardous food or of any food that is not in unbroken sealed packages upon any premises operated under a food dealer's permit that is limited to the operation of a restricted warehouse.~~

~~(g) Any person desiring to operate a packaged food only food establishment may request in the application that his food dealer's permit be issued on a basis limited exclusively to the operation of a packaged food only food establishment. The permit shall be designated 'packaged food only food establishment' on the face of the permit. It shall be unlawful for any person to cause, suffer or permit the receipt, storage, or distribution of any food that is in unsealed, opened, or broken packages upon any premises operated under this type of food establishment permit.~~

~~(h)~~ ~~(e)~~ Notwithstanding the provisions of section 40-8 of this Code, the director of health and human services may waive the food dealer's permit and inspection requirements with respect to a temporary food service establishment that is a beverage stand serving only non-potentially hazardous beverages operated by a minor under the supervision of a responsible adult designated by the minor's parent or guardian as part of an activity organized by a non-profit organization whereby the minor keeps any profit earned. The location of the food service establishment must be approved by the director. A waiver of the temporary food dealer's permit and inspection requirements shall be considered only upon written request and after the responsible adult receives a food safety brochure provided by the health and human services department.

The responsible adult must be an individual that has not had a food dealer's permit denied or revoked by this or any other licensing entity and must have no more than 5 minors under his supervision during the activity. Once a waiver is issued, it must be available for inspection at the food service establishment during the hours of operation of the establishment.

Sec. 20-37. Mobile food unit medallion.

(a) Any person desiring to operate one or more mobile food units in the city other than restricted operations mobile food units shall ~~have a valid food dealer's permit and shall~~ obtain an individual medallion for each operating mobile food unit from the health officer. Each medallion will be issued unit-by-unit only after an inspection reveals satisfactory compliance with the provisions of section 20-22 of this Code. The medallions shall remain the property of the department.

(b) No person shall operate or cause to be operated any mobile food unit that does not possess a valid medallion issued by the health officer.

(c) A medallion shall be affixed by the health officer or his authorized agents on the mobile food unit in a conspicuous place where it can be viewed by patrons. ~~The medallion shall set forth the business name, the manufacturer's serial number for that unit, the state registration number, and the name and address of the person who applied for the medallion.~~

(d) Application for a medallion shall be made on forms provided by the health officer. The application shall include the applicant's full name and post office address; the address of the location at which the mobile food unit is stationed when not in use; the business name and address of the

commissary or other fixed food service establishment from which potentially hazardous food supplies are obtained; the address of the servicing area; a description of the mobile food unit that includes the manufacturer's make, model, and serial number, the vehicle's state registration number, and the signature of the applicant.

(e) All of the provisions of this article pertaining to food service establishments shall apply to the commissary or other fixed food service establishment from which the food supplies are obtained. Any suspension or revocation of the food dealer's permit for a food service establishment will be cause for suspension or revocation of the medallion of any mobile food unit that is supplied or serviced by the establishment.

Sec. 20-38. Fees; transfer of medallion.

(a) At the time of issuance of an original food dealer's permit and each renewal thereof, the person requesting the permit shall pay to the health officer a permit fee for one complete year from the date of issuance. Except as otherwise provided, permit fees shall be determined by the total number of persons employed full-time or part-time by the food processing or food service establishment.

(b) Fees shall be determined according to the following schedule, except that food service establishments (other than temporary food service establishments) that operate exclusively as part of a nonprofit organization shall be charged \$20.00 for each food dealer's permit. Temporary food service establishments, as defined, shall be charged a nonrefundable base permit fee of \$60.00 for each day that the permit is valid, provided, however, that the total fee for a temporary food service establishment while participating in an event with a duration of ten consecutive days or more at the same location shall be \$600.00.

(1) **Permit fees.** The nonrefundable annual fee for a food dealer's permit shall be based on the number of employees of the establishment to be licensed and the following schedule:

a.	One to nine employees	\$200.00
b.	Ten to 25 employees	330.00
c.	Twenty-six to 50 employees	480.00
d.	Fifty-one to 100 employees	630.00
e.	One hundred one or more employees	780.00

f. In addition to the fees described in this item, there shall be a technology and administrative fee added to each food dealer's permit in the amount of \$10.00. This technology and administrative fee shall be payable at the time the food dealer's permit is paid

(2) **Mobile food unit medallion--Fee; transferability.** At the time of issuance of an original medallion to operate a mobile food unit and each renewal thereof, the person requesting the medallion shall pay to the health officer a fee for one complete year from the date of issuance. The fee for a medallion shall be ~~\$200.00~~\$300.00. Medallions are not transferable from one person to another nor from one mobile food unit to another mobile food unit. In addition to the fees described for the operation of a mobile food unit above, there shall be a technology and administrative fee added to each mobile food unit medallion in the amount of \$10.00. This technology and administrative fee shall be payable at the time the mobile food unit medallion is paid.

- (3) **Same--Replacement fee.** An individual who has lost a valid, current food dealer's permit or mobile food unit medallion may obtain a replacement from the health officer for a fee of ~~\$10.00~~ \$25.00.
- (4) **Special investigative fee.** In addition to the permit fee as specified in item (1) above, there is hereby assessed a special investigative fee of \$50.00 that shall be payable for any renewal of a food dealer's permit if the renewal application is not received in the offices of the health and human services department in completed form and accompanied by the permit fee therefor on or before the business day after the date of expiration of the permit to be renewed. For purposes of this fee, any new permit issued to the same person(s) for a food establishment at the same location shall be deemed to be a renewal, unless the person(s) demonstrate to the health officer, by clear and convincing evidence, that the food establishment has not been operated since the prior permit expired.

This special investigative fee is imposed to partially defray the additional inspection and administrative costs related to late renewals. It shall not be considered to be a civil or criminal penalty, nor shall its imposition bar or constitute a defense to any prosecution for operation of a food establishment without a food dealer's permit.

- (5) **Electronic monitoring system fee.** A person requesting a medallion for the operation of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit, or a fixed location mobile food unit, shall pay a \$200.00 electronic monitoring system fee for the maintenance, operation, and utilization of the electronic monitoring system.

(c) The fees otherwise required by this section shall not be imposed by the health officer for the issuance of a food dealer's permit to operate a temporary food service establishment within a city park if each of the following criteria is met:

- (1) The temporary food service establishment is being operated by a community-based organization as part of a public gathering for which a permit has been issued under article III of chapter 32 of this Code, and the director of parks and recreation has waived user fees for the gathering pursuant to section 32-69(f) of this Code;
- (2) All persons responsible for organizing and working in the temporary food service establishment are unpaid volunteers; and
- (3) All proceeds from the operation of the temporary food service establishment are retained to be used for the benefit of the community-based organization or are donated to the city.

The provisions of this subsection shall not be construed to excuse the community-based organization from obtaining a temporary food dealer's permit or from complying with any other applicable provision of this article.

(d) Food service establishments, except mobile food units, shall pay a nonrefundable annual fee of \$50.00 for each interceptor to obtain a registration certificate, as provided in section 47-423 of this Code.

Sec. 20-39. Frozen desserts retail establishments.

(a) In addition to any other information required to be furnished to the health officer pursuant to section 20-36 of this Code, each applicant for a food dealer's permit shall be required to disclose to the health officer whether the proposed establishment or mobile food unit constitutes a frozen desserts retail establishment. The term 'frozen desserts retail establishment,' as used in this section, shall mean any

premises, including a retail store, approved type stand, hotel, restaurant, vehicle or mobile food unit, where frozen dessert mixes are frozen or partially frozen and dispensed for retail sale or distribution.

(b) Each holder of a valid and unexpired food dealer's permit under this division who desires to commence operating a frozen desserts retail establishment shall make an application for a frozen desserts retail establishment permit for the affected premises or mobile food unit to the health officer on forms provided by the health officer.

(c) There is hereby levied an annual fee for the frozen desserts retail establishment permit of \$110.00, which shall be payable to and collected by the health officer in conjunction with and in addition to the fees prescribed in section 20-38 of this Code for the issuance of a food dealer's permit. In the event that the term of an applicant's frozen desserts retail establishment permit has a shorter duration than the term of its food dealer's permit, the fee for the frozen desserts retail establishment permit shall be prorated for the unexpired term of the food dealer's permit at the rate of \$9.00 per month for each full month or portion of a month remaining thereon, provided that the minimum prorated fee shall be \$54.00. The annual fee for a frozen desserts retail establishment permit for a frozen desserts retail establishment operated by a nonprofit organization shall be \$45.00; the fee shall not be subject to proration.

(d) A holder of a frozen desserts retail establishment permit that has lost the permit may obtain a replacement permit from the health officer for a fee of ~~\$10.00~~ \$25.00.

Sec. 20-40. Term.

A food dealer's permit shall be valid for one year from the date of issuance and shall be renewed on or before the expiration date of the previous permit. Each mobile food unit medallion shall be valid for one year from the date of issuance and shall be renewed on or before the expiration date of the previous medallion.

Sec. 20-41. Suspension.

(a) The director of the health and human services department, or at the director's designation in writing, ~~the deputy director, the any assistant director of personal health services, or the assistant director of administrative support services,~~ may suspend any food dealer's permit or any medallion to operate a mobile food unit, with notice as is reasonable under the circumstances, if the permit or medallion holder does not comply with the requirements of this article or section 21-244 or section 21-247(b) of this Code, or if the operation of the food processing or food service establishment or mobile food unit otherwise constitutes a substantial hazard to public health. Without exclusion of any other grounds, operation of a food establishment in violation of any provision of section 20-53 of this Code is in and of itself sufficient cause for a suspension. Suspension is effective upon service of the notice required by subsection (b) below. Where a permit or medallion is suspended, food processing and/or food service operations shall immediately cease.

(b) Whenever a permit or medallion is suspended, written notice shall be given to the permit or medallion holder or the person in charge or any employee or agent of the food establishment or mobile food unit. The notice shall set forth:

- (1) The specific conditions in the food establishment or mobile food unit that are in violation of this article or that constitute a substantial hazard to public health;
- (2) That a hearing will be held before a hearing officer;
- (3) The date, time and place of the hearing; and
- (4) That the permit or medallion holder may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

The hearing shall be held not later than ten days after the date the permit or medallion is suspended.

(c) Whenever a permit is suspended, it shall be physically removed from the premises by the health officer and retained at the department until the suspension has terminated.

(d) Whenever a medallion is suspended, it shall be physically removed from the mobile food unit in violation by the health officer.

(e) All hearings shall be conducted by a person designated by the director of health and human services, who shall be referred to as the hearing officer. The director shall not designate any person to perform the duties of hearing officer under this section who has participated in the inspection of the food establishment or mobile food unit, or has prior knowledge of the allegations or circumstances discovered in the inspection or inspections except the person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the permit or medallion holder or the person in charge.

(f) All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to the hearings:

- (1) All parties shall have the right to representation by a licensed attorney though an attorney is not required.
- (2) Each party may present witnesses in his own behalf.
- (3) Each party has the right to cross-examine all witnesses.
- (4) Only evidence presented before the hearing officer at the hearing may be considered in rendering the order.

(g) If the permit or medallion holder fails to appear at the hearing at the time, place, and date specified, the city shall present sufficient evidence to establish a prima facie case showing violation of this article or conditions constituting a hazard to public health that formed the basis of the suspension of the permit or medallion.

(h) If the hearing officer finds that the food service establishment, food processing establishment or mobile food unit was, in fact, in violation of this article or that it constituted a hazard to public health, the hearing officer shall make written findings of fact and shall order the permit or medallion suspended until all violations of this article are corrected and any conditions constituting a hazard to public health are eliminated. A copy of the findings and order of the hearing officer shall be sent by certified mail, return receipt requested, to the permit or medallion holder.

(i) If the hearing officer finds that the public interest will be adequately protected by a warning or other penalties authorized under this article, he may reinstate the permit or medallion.

(j) Whenever the reasons for a suspension no longer exist, the permit or medallion holder or person in charge shall notify the health officer that the conditions under which the permit or medallion was suspended have been corrected and that an inspection is requested. The inspection shall be conducted as soon as possible after the request is received and in no event no later than three regular working days after the receipt of the request for inspection.

(k) When a mobile food unit medallion that has been suspended is reinstated, a new medallion shall be affixed to the unit at no extra cost to the owner or operator. A reinstated medallion shall include all of the same information as appeared on the medallion that was suspended.

Sec. 20-42. Revocation.

(a) A food dealer's permit or medallion to operate a mobile food unit may be revoked for up to 180 days if:

- (1) The permit holder or his agents or employees interfere with an inspection of the food establishment by a health officer; or
- (2) There are repeated or serious violations of the applicable portions of this article; or
- (3) There are repeated or serious violations of federal or state food laws or laws regulating food establishments as defined in this article; or
- (4) There is a violation of section 21-244 or section 21-247(b) of this Code; or

~~(4)~~(5) In the case of mobile food units, if the permit holder or his agent has not reported an accident to the health officer within 24 hours of the time the accident occurred if the accident resulted in the damage of the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being carried or any damage that results in a violation of the provisions of section 20-22 of this Code.

(b) Prior to revocation, written notice shall be given to the permit or medallion holder or person in charge. The notice shall set forth:

- (1) The grounds upon which the city will seek revocation of the permit;
- (2) The specific violations of this article or of federal or state law upon which the city will rely in seeking revocation of the permit;
- (3) That a hearing will be held before a hearing officer;
- (4) The date, time and place of the hearing; and
- (5) That the permit or medallion holder may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

(c) The hearing shall be held in accordance with subsections (e) through (g) of section 20-41 of this Code. If the permit or medallion holder fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed that constitutes grounds for revocation of a permit.

(d) After completion of the hearing, the hearing officer shall make written findings as to whether or not grounds exist for revocation of the permit or medallion. If the hearing officer finds that grounds do exist for revocation, he shall revoke the permit or medallion for up to 180 days. A copy of the written findings shall be sent by certified mail, return receipt requested, to the permit or medallion holder. If the address of the permit or medallion holder is unknown, or if the findings are returned undelivered, the findings shall be served on the person in charge of the food establishment or mobile food unit.

(e) If the hearing officer revokes the permit or medallion, written notice of the revocation shall be served on the permit or medallion holder or the person in charge with a copy of the findings.

(f) Upon service of a written notice that the permit or medallion has been revoked as provided herein, all food operations shall cease immediately.

(g) Whenever a permit or medallion is revoked, it shall be physically removed from the premises or mobile food unit by the health officer.

(h) In the event a permit or medallion is revoked, the city shall not be liable to the permit holder for any refund of any part of the permit fee. Reinstatement of a permit that has been revoked shall require application and payment of a permit fee as if it were an initial application. No new permit or medallion application shall be considered for an establishment or mobile food unit where the permit or medallion has been revoked until the expiration of the revocation period.

Sec. 20-43. Service of notices.

Any notice provided for in this article may be served by personal delivery or by certified mail, return receipt requested.

Sec. 20-44. Special employee training.

(a) The department shall, upon request, conduct employee training for employees of food establishments in basic sanitation and food handling methods at a fee of \$10.00 per employee. The training shall be conducted at the food establishment or at another place provided by the food establishment operator as may be mutually convenient to the operator of the food establishment and the department.

(b) In any instance in which a food dealer's permit or a medallion to operate a mobile food unit is suspended or revoked pursuant to this article, the hearing officer shall make a finding as to whether the violations giving rise to the suspension or revocation are based in substantial part upon failure of the establishment's employees to utilize proper sanitation or food handling methods. If the hearing officer so finds, then the director shall require, as a condition of lifting the suspension or issuing a new license, that all employees of the food establishment or mobile food unit who are involved in any manner with the implementation of sanitation practices or the handling of food receive the training provided pursuant to subsection (a) above.

(c) In any instance in which a food establishment or mobile food unit elects to voluntarily cease food manufacturing production, preparation, processing, packaging or service operations on a temporary basis at the request or suggestion of the health officer to correct deficiencies relating to sanitation or food handling practices or under threat of the implementation of a formal suspension or revocation proceeding under this article on grounds relating to sanitation or food handling practices, the health officer shall, as a condition of waiving the implementation of or the taking of further action on the suspension or revocation proceeding, require that the operator agree to cause all employees who are involved in any manner with the implementation of sanitation practices or the handling of food to receive the training provided pursuant to subsection (a) as a condition of reopening the establishment.

Secs. 20-45--20-51. Reserved.

DIVISION 3. FOOD SERVICE MANAGER'S CERTIFICATION

Sec. 20-52. Program established.

There shall be a program of food service manager's certification conducted under the direction of the health officer. The program shall have as its primary goal the training of persons in ~~managerial positions~~ within the food service industry in safe food handling practices, including knowledge of the provisions of this article. Training Except as otherwise provided in this division, training shall be accomplished by means of a special course that will be made available to those persons seeking certification. Certification shall be accomplished after all course requirements have been met and the applicant has demonstrated by means of an examination that he possesses the required minimum essential knowledge provided after all requirements of this division have been met as determined by the health officer.

Sec. 20-53. Food service manager requirements.

(a) It shall be unlawful for any person to own, operate or cause to be operated any food establishment unless the person in charge thereof has in his possession a valid and current food service manager's certification issued to him by the department pursuant to this division ~~by the department~~. It is a defense to prosecution under this subsection:

- (1) That the food establishment was not engaged at the time of the alleged offense in the manufacturing, production, preparation, processing, packaging, or service of food or in the conduct of any make-ready activities commenced prior thereto or cleanup activities performed afterwards; or
- (2) That the food establishment is a retail food store in which all food sold or offered for sale is received, kept and sold in the manufacturer's unbroken sealed packages or a packaged-food-only food establishment; or
- (3) That the food establishment is a restricted bar or a restricted warehouse; or
- (4) That the food establishment is a temporary food establishment that has been exempted under subsection (c) below.

(b) It shall be unlawful for any person to own, operate, or cause to be operated any food preparation area unless the food service manager has in his possession a valid and current food service manager's certification issued to him by the department pursuant to this division. It is a defense to prosecution under this section:

- (1) That the kitchen was not, at the time of the alleged offense, in use for the manufacturing, production, preparation, processing or packaging of food or the conduct of make-ready activities commenced prior thereto or cleanup activities performed afterward; or
- (2) That the kitchen is a part of a temporary food establishment that has been exempted pursuant to subsection (c) below.

(c) A person applying for a permit to operate a temporary food service establishment shall be exempted by the health officer from the food service manager's certification requirements if the applicant demonstrates to the health officer evidence of an adequate understanding of this article and an adequate understanding of safe and sanitary operating and food handling practices and is not simultaneously associated with another food service operation in the city.

(d) A food service manager's certification is not transferable from one person to another.

(e) When the person in charge is not required to have in his possession a valid and current food service manager's certification as specified in subsection (a) (1), (2), (3) or (b)(1) above, the person in charge shall demonstrate knowledge.

Sec. 20-54. Application for certification; training course generally.

(a) Any person desiring an original or renewal food service manager's certification shall make written application for certification on forms provided by the health officer. The application shall include:

- (1) The applicant's full name, and post office address, and telephone number;
- (2) Identifying features such as color of hair, eyes, height, sex, age; The gender of the applicant;
- (3) The applicant's Texas driver's license or personal state identification certificate number; card or other valid form of photographic identification.
- (4) The name, and address, and telephone number of the establishment where the applicant is currently employed;
- (5) The signature and title of the applicant; and
- (6) If the application is a renewal application, proof of the date of expiration of the prior certification issued hereunder that is to be renewed. for a certificate renewal, proof of current City of Houston certification as approved under this division.

(b) A completed application for food service manager's certification shall serve as a request for enrollment in a special course of training conducted under the direction of the health officer to obtain a food service manager's certificate by training, reciprocity, or optional testing under section 20-63 of this Code.

(c) Applications for renewals of certifications must be received by the department, accompanied by the applicable fee, and the applicant must attend the renewal course or complete the optional testing, on or before the ~~thirtieth~~ sixtieth day following the expiration of the City of Houston certification that is to be renewed. Otherwise, the certification shall not be subject to renewal, and the applicant will be required to apply for an initial certification.

(d) All applications for food service manager's certification must be accompanied by the appropriate fee as set forth in ~~section 20-57 of this Code~~ this division.

(e) The health officer may deny an application for a food service manager's certification if ~~any person~~ the applicant knowingly makes any false, fraudulent, or unlawful statement on the application.

Sec. 20-55. Duration of certification course; passing grade.

(a) The special course of training for food service manager's certification shall be at least 15 hours in length for initial certifications and at least seven hours in length for renewal certifications.

(b) Courses will be scheduled periodically to allow all qualified individuals the opportunity for training.

(c) All persons completing the applicable course of training for food service manager's certification shall be required to demonstrate by means of an examination that they possess a minimum essential knowledge of safe food handling practices, including an acceptable knowledge of this article. A passing score for this examination shall be at least 70 points out of a possible 100.

(d) If an applicant for initial certification or for renewal certification fails to pass the required examination after taking the applicable training course, he must take the initial certification course before taking another examination. In order to take the training course an applicant must submit another completed application accompanied by payment of the full applicable fee for an initial application.

Sec. 20-56. Issuance of certification.

(a) A person may be issued a food service manager's certification if he has satisfactorily completed the requirements set forth in sections 20-54 and 20-55 of this Code. The certification shall be in the form of an identification card, ~~and which~~ shall include the applicant's full name and post office address; identification information, certification number, and examination score, the date issued, and the expiration date. Certification shall also be in the form of a wall certificate containing pertinent information that shall be posted in view of the public in the establishment ~~that where~~ the certified person ~~manages is~~ employed.

(b) A person possessing a food service manager's certification card shall have the card on his person as proof of certification at all times while on duty.

(c) A person possessing a food service manager's certification card shall present the card along with a current driver's license, state ~~personal~~ identification card or other ~~governmentally issued~~ valid photographic identification of the person certified for examination when requested to do so by the health officer.

(d) ~~A~~ A ~~valid~~ food service manager's certification cards ~~remains~~ the property of the department and may be required to be surrendered to the health officer to be voided upon revocation or when it has been posted or used in an unlawful manner.

Sec. 20-57. Fees.

Fees for food service manager's certification and each renewal thereof are as follows:

- (1) *Food service manager's certification.* ~~An~~ Except where another fee amount is established in this division, an application fee of ~~\$45.00~~ 60.00 shall be required to be paid to the health officer at the time of filing of an initial application. ~~An~~ and an application fee of ~~\$30.00~~ 45.00 shall be required to be paid to the health officer at the time of filing of a renewal course application. ~~The application fees are nonrefundable unless duplicated. In addition to the food service manager's certification application fee there shall be a technology and administrative fee added to each food service manager's application in the amount of \$10.00. This technology and administrative fee shall be payable at the time the food service manager's application is paid. The application and technology and administrative fees are nonrefundable unless incorrectly charged and/or paid more than once.~~
- (2) *Replacement of certification card.* An individual who has lost a valid, current food service manager's certification card may obtain a replacement wall certificate and corresponding certification card from the health officer for a fee of ~~\$40.00~~ \$25.00.

Sec. 20-58. Expiration.

A food service manager's certification shall be valid for a period of ~~three~~ five years from the date of its issuance except as specified in Section 20-63. Unless a duly completed application for renewal is timely filed as provided in section 20-54(c) of this Code, a certification shall not be subject to renewal. The filing of an application for renewal shall not be construed to extend the expiration of a certification, and the filing of an application for renewal shall not constitute any authority to act as a food service manager pending the actual issuance of the renewal certification.

Sec. 20-59. Revocation.

(a) A food service manager's certification may be revoked if:

- (1) The food service manager interferes with an inspection of the food establishment by the health officer.
- (2) There are repeated or serious violations of this article in the food establishment at times the food service manager is employed by that food establishment.
- (3) There are repeated or serious violations of federal or state food laws or laws regulating the operation of the food establishment at times the food service manager is employed by that food establishment.

(b) Prior to revocation of a food service manager's certification, written notice shall be given to the food service manager and to the holder of the food dealer's permit for the establishment in which the food service manager is employed. The notice shall set forth:

- (1) The grounds upon which the city will seek revocation of the certification;
- (2) The specific violations of this article or of federal or state laws upon which the city will rely in seeking revocation of the certification;
- (3) That a hearing will be held before a hearing officer;
- (4) The date, time and place of the hearing; and
- (5) That the food service manager may appear in person and/or be represented by counsel, may present testimony, and may cross-examine all witnesses.

(c) The hearing shall be held in accordance with subsections (e) through (g) of section 20-41 of this Code. If the food service manager fails to appear at the food hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed that constitute grounds for revocation of the certification.

(d) After completion of the hearing, the hearing officer shall make written findings as to whether or not grounds exist for revocation of the certification. If the hearing officer finds that grounds do exist for revocation, he shall revoke the certification. A copy of the written findings shall be furnished by personal delivery or by certified mail, return receipt requested, to the food service manager and to the holder of the food dealer's permit for the establishment in which the food service manager is employed.

(e) If the hearing officer revokes the certification, written notice of the revocation shall be served on the food service manager and the owner of the food dealer's permit with a copy of the findings.

(f) Upon receiving written notice that the food service manager's certification has been revoked, the food service manager shall submit the certification card to the health officer. In the event a certification is revoked, the city shall not be liable for any refund of any part of the fee paid for the certification.

(g) A person whose food service manager's certification has been revoked shall not be granted a new certification until he has attended a course of training, passed the required examination subsequent to the revocation, and met all requirements of an initial applicant.

Sec. 20-60. False, fraudulent statements on application.

It shall be unlawful for any person to knowingly make any false, fraudulent, or untruthful statement on any application for food service manager's certification or in any way knowingly conceal any material fact or give or use any fictitious name in order to secure or aid in securing a food service manager's certification required by this division. Any food service manager's certification card so secured shall be void.

Sec. 20-61. Fraudulent use of certification.

It shall be unlawful for any person to fraudulently make use of, in any manner for his own or another's benefit or advantage, a food service manager's certification that has not been duly issued to him in accordance with the provisions of this division. It shall be unlawful for any food establishment to have posted the food service manager certification of any person no longer in the employment of the food establishment.

Sec. 20-62. Interpretation.

This article shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

Sec. 20-63. State accreditation; reciprocity.

(a) Notwithstanding any other provision of this division a person who provides written proof by means of a current and valid certificate that such person has successfully completed a training program accredited by the State of Texas pursuant to subchapter D of chapter 438 of the Health and Safety Code, or similar food safety courses offered by the International Food Safety Council approved by the Conference for Food Protection (CFP) within the immediately preceding period of three five years and makes application as otherwise provided in section 20-54(a) of this Code shall be issued a certification without further examination by the city under this division. A-The commencement date of such certification shall be the same date the application is submitted to the department and shall expire on the third second anniversary of the same date the state or nationally accredited program certificate expires or that the applicant completed the state accredited or other training program. The application fee for a certification issued under this subsection shall be reduced to \$10.00\$25.00. In addition to the food service manager's certification application fee for reciprocity, there shall be a technology and administrative fee added to each food service manager's application in the amount of \$10.00. This technology and administrative fee shall be payable at the time the food service manager's application fee is paid.

(b) The health officer may authorize a person who is not otherwise entitled to certification under subsection (a) above, and who has opted not to take the current certification training course otherwise required under this division, to take the optional examination given hereunder.

The application and testing fee under this subsection shall be \$50.00. If the applicant successfully completes the examination, then the applicant shall be issued a food service manager's certification without payment of any additional fee. If the applicant fails to successfully complete the examination, then

the applicant shall not be entitled to any refund and may not retake the examination without first applying for and taking the city certification training course in accordance with the terms of this division. No fee refund shall be authorized.

Sec. 20-64. Bed and breakfast limited.

The owner or other person who principally manages the food service operations of a bed and breakfast limited, as defined in section 20-18 of this Code, must be certified, regardless of whether the establishment is required to have a food dealer's permit.

Secs. 20-65--20-80. Reserved.

EXHIBIT B

ARTICLE IV VI. VENDING MACHINES

Sec. 20-200. Definitions.

As used in this article, the following words and phrases shall have the meanings set forth in this section unless otherwise clearly indicated in the text. Words not defined shall be interpreted in their usual sense:

Bulk food means any food that, when it is dispensed to the customer, is not packaged, wrapped, or otherwise enclosed.

Condiment means any food, such as salt, pepper, mustard and ketchup, that is used to enhance the flavor of other food.

Commissary means a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored with the intent that some or all of the items will be used in vending machines. The term shall not be construed to include an area or conveyance at a vending machine location that is used for the temporary storage of packaged food or beverages.

Controlled location vending machine (limited service vending machine) means a vending machine that:

- (1) Dispenses only nonpotentially hazardous packaged food;
- (2) Is designed so that it can be filled and maintained in a sanitary manner by untrained persons at the location; and
- (3) Is intended for and used at locations in which protection is assured against environmental contamination.

Corrosion-resistant means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

~~*Easily cleanable* means that surfaces are readily accessible and made with materials and finishes and so fabricated that residues may be effectively removed by normal cleaning methods.~~ has the meaning ascribed in section 20-18 of this Code.

Employee means the permit holder, person in charge, person having the individual having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment, and any other person who handles any food that is intended to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations, or who otherwise services or maintains the machines.

Equipment means vending machines, ovens, tables, counters, sinks, and similar items, other than utensils used in vending operations.

Filth means dust, dirt, insect excretions or other secretions, insect body parts, rodent hairs or excretions, feathers, or any other foreign or injurious contamination.

Food means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, including chewing gum.

Food-contact surfaces means those surfaces with which food normally comes into contact, and those surfaces from which food may drain, drip or splash back into a food or onto a surface normally in contact with food.

Garbage means every accumulation of animal, vegetable, and other waste matter that attends the preparation, handling, consumption, storage, or decay of plant and animal matter, including meats, fish and seafoods, birds, fruit, vegetable or dairy products and the waste wrappers or containers thereof.

Hermetically-sealed container means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Law means all applicable federal, state, and local statutes, ordinances, and regulations.

Machine location means the room, enclosure, space or area where one or more vending machines are installed and operated.

Operator means any person who takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.

Packaged means bottled, canned, cartoned, or securely bagged or securely wrapped, whether packaged in a food establishment or a food processing plant. ~~otherwise securely wrapped. Packaged does not include a wrapper, carry out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.~~

Person includes an individual, partnership, corporation, association, or other legal entity.

~~*Potable water* means water from an approved source that has been determined by the health officer, after appropriate testing, as suitable for human consumption. shall have the meaning ascribed in section 20-18 of this Code.~~

~~*Potentially hazardous food (PHF)* shall have the meaning ascribed in section 20-18 of this Code. mean (a) food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or, in raw shell eggs, the growth of *Salmonella enteritidis*.~~

~~(b) — The term includes food of animal origin, that is raw or heat treated; food of plant origin that is heat treated or consists of raw seed sprouts; any cut melons; and any garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant modified in a way that results in mixtures that do not support growth, as specified under subparagraph (A) of this paragraph;~~

~~(c) — The term does not include:~~

~~(1) — An air-cooled hard-boiled egg with shell intact;~~

~~(2) — Any food with a water activity (Aw) value of 0.85 or less;~~

- (3) ~~Any food with a pH level of 4.6 or below when measured at 75°F (24°C);~~
- (4) ~~Any food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;~~
- (5) ~~Any food for which laboratory evidence, demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. enteritidis* in eggs or *C. botulinum* cannot occur, such as a food that has an Aw and a pH that are above the levels specified above and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; and~~
- (6) ~~Any food that does not support the growth of microorganisms as specified under the introductory paragraph of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified in this definition.~~

Poultry shall have the meaning ascribed in section 20-18 of this Code.

Readily accessible means exposed or capable of being exposed for cleaning and inspection without the use of tools.

Restrict shall have the meaning ascribed in section 20-18 of this Code.

Safe materials means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used, they are 'safe' only if they are used in conformity with regulations established pursuant to Section 409 or Section 706 of the act. Other materials are 'safe' only if they are not food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act and are used in conformity with regulations issued under the act.

Safe temperatures for potentially hazardous food means temperatures of 41°F (5°C) or below or ~~140~~ 135°F (60°C) or above.

Sanitized means having received effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

Sealed means free of cracks or other openings that permit the entry or passage of moisture.

Single-service articles means tableware, carry-out utensils, and other items such as bags, containers, placemats, cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and wrappers that are designed and constructed similar articles designed for one-time, one-person use, after which they are intended for discard, and then discarding.

Utensil means shall mean any multi-use or single-service food-contact implement or container used in the storage, preparation, transportation, dispensing, sales or service of food,

such as kitchenware or tableware; including gloves used in contact with food; and temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food any implement used in the storage, preparation, transportation or service of food.

Vending machine means any self-service device that, upon insertion of a coin, paper currency, token, card or key or by optional manual operation, dispenses unit servings of food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation. It shall also include self-service dispensers equipped for coin, paper currency, token, card, or key operation and optional manual operation. Unless otherwise stated, vending machine includes controlled location vending machines.

Vending machine location shall mean the room, enclosure, space, or area where one or more vending machines are installed or operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

Sec. 20-201. Food supplies.

(a) Food which is placed in any vending machine or is exposed for sale, offered for sale, or sold through a vending machine shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all applicable laws relating to food and food labeling. Food in hermetically sealed containers that were not prepared in a food processing establishment may not be placed in any vending machine.

(b) Food from commissaries outside the jurisdiction of the city may be sold within the city if such commissaries conform to substantially equivalent food service sanitation standards. To determine the extent of compliance with such provisions, the health officer may accept reports from the responsible authorities in the jurisdictions where the commissaries are located. Where such reports cannot be obtained or there is some question regarding their validity, the health officer may request the commissary in question to permit an inspection of the commissary. If the commissary in question refuses to permit such an inspection after the health officer has determined the necessity for such an inspection, he shall bar the sale of food from that commissary within the city. The cost of inspections of commissaries outside the city shall be borne by the commissary.

Sec. 20-202. Food protection.

Food intended for sale through vending machines shall be protected from any agent of contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs, sneezes, flooding, draining, and overhead leakage or condensation at all times, including while being prepared, stored, loaded, displayed or transported.

Sec. 20-203. Temperatures.

The temperature of potentially hazardous foods shall be 41°F (5°C) or below or 140°F (60°C) or above at all times, except as otherwise provided in subsection 20-204(g) of this Code.

Sec. 20-204. Potentially hazardous foods.

(a) Milk and fluid milk products offered for sale through vending machines shall be pasteurized, shall meet the Grade A quality standards as established by applicable laws, and shall be dispensed only in individual original containers.

(b) Milk and fluid milk products and fluid nondairy products (creaming agents) shall not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

(c) When condiments are provided in conjunction with food dispensed by a vending machine, they shall be:

- (1) Packaged in individual portions in single-service containers; or
- (2) Made available from condiment self-service dispensing equipment at those locations having an on duty attendant if sanitary facilities are provided in accordance with article II of this chapter.

(d) Fresh fruits which may be eaten without peeling shall be thoroughly washed in potable water at the packing plant by the processor, or at the commissary before being placed in the vending machines for dispensing. The washed fruit shall be protected from contamination after the washing process.

(e) All food, other than fresh fruit, shall be stored or packaged in clean protective containers, and all food shall be handled and vended in a sanitary manner.

(f) Potentially hazardous food offered for sale through vending machines shall be dispensed to the consumer in the individual, original container or package into which it was placed at the commissary or at the manufacturer's or processor's plant.

Potentially hazardous food shall not be dispensed from bulk food machines.

(g) Potentially hazardous food shall be maintained at safe temperatures except as follows:

- (1) During necessary periods of preparation and packaging; and
- (2) During the actual time required to load or otherwise service the machine not to exceed ten minutes and for a maximum machine ambient temperature recovery period of 30 minutes following completion of loading or servicing operation.

(h) Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units and thermostatic controls ~~which insure to ensure~~ the maintenance of safe temperatures at all times. Such vending machines shall also have automatic controls which prevent the machine from vending potentially hazardous food until serviced by the operator in the event of power failure, mechanical failure or other condition which results in noncompliance with temperature requirements in the food storage compartment.

(i) Potentially hazardous food that has failed to conform to the time-temperature requirements of this article shall be removed from the vending machine and be denatured or otherwise rendered unusable for human consumption.

(j) Vending machines dispensing potentially hazardous food shall be provided with one or more thermometers which, to an accuracy of ~~plus or minus three (±3)~~ degrees Fahrenheit, indicate the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.

Sec. 20-205. Personal hygiene.

(a) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices while engaged in handling foods or food-contact surfaces, utensils or equipment.

(b) Employees shall thoroughly wash their hands with soap and warm water immediately prior to engaging in any vending machine servicing operation which may bring them into contact with food, or with food-contact surfaces of utensils, containers or equipment. While engaging in such servicing operations, employees shall wear clean outer garments, shall not use tobacco in any form and shall keep their fingernails clean and trimmed.

Sec. 20-206. Communicable disease.

(a) No person, while infected with a communicable disease that can be transmitted by foods or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in any area of a commissary or vending operation.

(b) When the health officer has reasonable cause to suspect the possibility of disease transmission from any employee, he may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The health officer may require any or all of the following measures:

- (1) The immediate exclusion of the employee from the commissary or vending operation.
- (2) The immediate closing of the commissary and vending operations concerned, in accordance with the procedures set out in ~~section 19-615~~ article II of this chapter, until, in the opinion of the health officer, no further danger of disease outbreak exists.
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.
- (4) Adequate medical and laboratory examinations of the employee, of other employees and of such persons' body discharges.

Sec. 20-207. Interior of vending machines.

(a) The non-food-contact surfaces of the interior of vending machines shall be designed and constructed to permit easy cleaning and to facilitate maintenance operations and shall be kept clean and in good repair. Inaccessible surfaces and areas shall be minimized.

(b) All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks and chipped places. The design of such surfaces shall preclude routine contact between food and V-type threaded surfaces, except that in equipment where such contact is unavoidable, such as ice makers, such threads shall be minimized. All joints and welds in food-contact surfaces shall be smooth, and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.

(c) If solder or other sealer is used on food-contact surfaces, it shall be composed of safe materials and be corrosion-resistant.

(d) All food-contact surfaces of vending machines, including containers, pipes, valves and fittings, shall be constructed and repaired with safe materials, including finishing materials, shall be corrosion-resistant, nonabsorbent, easily cleanable and durable under conditions of normal use, and shall be cleaned, rinsed and sanitized as often as necessary to keep such surfaces clean. The health officer may establish frequencies for such cleanings based upon the type of product being dispensed to ensure that the surfaces are kept clean, and the operator shall comply with any such requirements.

(e) All food-contact surfaces, unless designed for in-place cleaning, shall be accessible for manual cleaning, rinsing, sanitizing and inspection:

- (1) Without being disassembled; or
- (2) By disassembly without the use of tools; or
- (3) By easy disassembling with the use of only simple tools such as a screwdriver or an open-end wrench.

(f) All food-contact parts or surfaces not designed for in-place cleaning shall be cleaned, rinsed and sanitized in clean portable containers or in ~~utensil-washing~~ utensil-washing sinks at the location or at the commissary. Cleaning shall consist of washing in warm water containing a suitable detergent and brushing or wiping, as appropriate. Rinsing shall consist of immersion or wiping with clean clear rinse water. Sanitizing shall be accomplished by:

- (1) Immersion or rinsing in water of at least 180° ~~degrees~~-Fahrenheit (82.2° ~~degrees~~-Celsius) for 30 seconds; or
- (2) Immersion for one minute in a chemical sanitizing solution containing at least 50 parts per million (p.p.m.) of available chlorine, or 12.5 p.p.m. of available iodine, or 200 p.p.m. of quaternary ammonium sanitizer.

(g) In machines designed so that food-contact surfaces are not readily removable, all such surfaces intended for in-place cleaning shall be designed and fabricated so that:

- (1) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and
- (2) Cleaning and sanitizing solutions will contact all food-contact surfaces; and
- (3) The system is self draining or capable of being completely evacuated; and
- (4) The procedures utilized result in thorough cleaning of the equipment.

(h) The openings into all nonpressurized containers used for the storage of vendible food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture or splash is possible. Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least three-sixteenths inch and shall be provided with an overlapping cover flanged downward. Condensation-, drip- or dust-deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the food container, unless a watertight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of safe materials, relatively stable, and relatively nonabsorbent, and shall have a smooth surface. All gasket-retaining grooves shall be easily cleanable.

(i) The delivery tube or chute and orifice of all bulk food vending machines shall be protected from normal manual contact, dust, insects, rodents, and other contamination. The design shall divert condensation or moisture from the normal filling position of the container receiving the food. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept closed except when food is being removed. The cup filling area or platform of vending machines shall not require a door or cover if there is no opening into the cabinet interior at the point other than for dispensing tube(s) or trapped waste tubing. The dispensing compartment of prepackaged candy and similar product

vending machines shall be equipped with a self-closing lid at vending locations where insect or rodent entry into the machine may occur.

(j) The food storage compartment and other compartments in refrigerated vending machines which are subject to condensation or cooling water retention shall be self draining or equipped with a drain outlet which permits complete draining. In vending machines ~~to~~that store cartoned beverages, diversion devices and retention pans or drains for leakage shall be provided. All such drains and retention pans shall be easily cleanable.

(k) Can and bottle openers which come into contact with the food or the food-contact surfaces of the containers shall be constructed of corrosion-resistant, nonabsorbent and safe materials and shall be kept clean. Cutting or piercing parts of multiuse openers which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination, and such parts shall be readily removable for cleaning.

Sec. 20-208. Exterior of vending machine.

(a) The vending machine shall be of sturdy construction and the exterior shall be designed, fabricated, finished and maintained to facilitate its being kept clean and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean.

(b) Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting, and if necessary, gasketed to prevent the entrance of dust, moisture, insects and rodents.

(c) All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machine shall be not less than 16 mesh to the inch or equivalent. Screening materials for openings into condenser units which are separated from food and container storage spaces shall be not less than 8 mesh to the inch or equivalent.

(d) In all vending machines in which the condenser unit is an integral part of the machine, such unit, when located below the food and container storage space, shall be separated from such space by a dust-proof barrier, and when located above, shall be sealed from such space.

(e) In order to prevent seepage underneath the machine and to promote cleaning, free-standing vending machines shall have one or more of these elevation or movability features:

- (1) Be light enough to be manually moved with ease by one person; or
- (2) Be elevated on legs or extended sidewalls to afford, with or without kickplates, an unobstructed vertical space of at least six (6) inches (fifteen and twenty-four-hundredths centimeters) under the machine; or
- (3) Be mounted on rollers or casters which permit easy movement; or
- (4) Be sealed to the floor.

Where used, kickplates shall be easily removable or be capable of being rotated. These kickplates shall be designed and installed to make the area under the machine easily accessible for routine cleaning without unlocking the cabinet door.

(f) Counter type machines shall be:

- (1) Sealed to the counter; or

- (2) Mounted on ~~four~~4-inch (~~ten and sixteen hundredths centimeters~~10.16 cm) legs or the equivalent; or
- (3) Easily movable for cleaning with service connections in place.

(g) All service connections through an exterior wall of the machines, including water, gas, electrical and refrigeration connections, shall be grommeted, or closed with no opening larger than ever one thirty seconds 1/32 inch (seventy nine hundredths (0.79) millimeter mm) to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food shall be such as to discourage their unauthorized or unintentional disconnection.

Sec. 20-209. Vending machine locations.

(a) Vending machines, ovens and other equipment shall be located in a room, area or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from water, waste or sewer piping. The immediate area in which the equipment is located shall be well-lighted and ventilated. Each vending machine shall be located so that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

(b) The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

(c) Adequate hand-washing facilities, including hot and cold or tempered running water, soap and individual towels, shall be convenient to bulk food machine locations and shall be available for use by employees servicing or loading bulk food machines.

(d) In operations where vending machines are rented, leased or owned by persons other than the holder of the commissary food dealer's permit, the facilities for cleaning and hand-washing, and for garbage and refuse storage and disposal may be provided by persons owning, renting or leasing the vending machine(s) or by other persons. However, it is the responsibility of the holder of the commissary food dealer's permit to see that all of the requirements of this article are fulfilled.

(e) Outdoor food vending areas, overhead protection. If located outside, a machine used to vend food shall be provided with overhead protection except that machines vending canned beverages need not meet this requirement.

Sec. 20-210. Single-service articles.

Single-service articles shall be purchased in sanitary packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be furnished to the customer in the original individual wrapper or from a sanitary single-service dispenser. All single-service articles shall be protected from manual contact, dust, insects, rodents, and other contamination.

Sec. 20-211. Equipment cleaning.

(a) All equipment at the vending location must be kept clean. Food-contact surfaces, if any, must be cleaned, rinsed and sanitized as often as necessary to keep such surfaces clean. The health officer may establish set frequencies for such cleanings to protect the public health based upon the type of product being dispensed, and the operator shall comply with any such requirements.

(b) The cavities and door edges of microwave ovens must be cleaned at least once a day with nonabrasive cleaners and shall be kept free of encrusted grease deposits and other accumulated soil. All doors, seals, hinges and latch fasteners (screws and related hardware) shall be kept tight and adjusted in accordance with manufacturer's procedures. Microwave ovens shall be in compliance with applicable safety standards of the U. S. Food and Drug Administration's Bureau of Radiological Health.

(c) Food contact surfaces of all equipment and utensils must be protected from contamination at all times including while being transported from the commissary to the vending location.

Sec. 20-212. Water supplies.

(a) All water used in vending machines shall be of a safe and sanitary quality and from a source constructed and operated according to all applicable laws. Water used as a food ingredient shall be piped to the vending machine under pressure, except that in controlled location vending machines, water may be obtained from a safe source and carried to the machines in containers that are clean and of good sanitary construction.

External water-fill parts and drawers of controlled location vending machines shall be designed so that covers and drawers are secured to the machine.

All plumbing connections and fittings shall be installed and maintained according to all applicable laws.

(b) If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element.

(c) To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines manufactured after January 1, 1975, which are designed with an incoming water supply air gap, shall have no copper tubing or other potentially toxic water system tubing between the air gap and the downstream, carbonated water dispensing nozzle.

(d) To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, of post-mix soft drink vending machines which are indirectly connected to the external water supply system shall be equipped with a double (or two single) spring-loaded check valve or other devices which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system. Backflow preventive devices shall be located to facilitate servicing and maintenance. No copper tubing or other potentially toxic tubing or contact surfaces shall be permitted in or downstream from the check valves or backflow devices. These check valves or backflow devices shall be inspected and cleaned or replaced not less than once every 12 months, and the holder of the food dealer's permit under which the machine is operated shall maintain a record thereof for inspection by the health officer upon request.

(e) Where spring-loaded check valves are used to prevent the backflow of carbon dioxide into accessible upstream copper or to other potentially toxic piping or tubing, a screen of not less than 100 mesh to the inch shall be installed in the water line immediately upstream from the check valves in a location which permits servicing or replacement.

(f) In all vending machines in which carbon dioxide is used as a propellant, all food-contact surfaces from the check valves or other protective devices, including the valves of devices, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

Sec. 20-213. Trash and garbage.

(a) All trash and other solid or liquid waste shall be removed from the machine location as frequently as may be necessary to prevent nuisances and unsightliness, and shall be disposed of in a lawful manner.

(b) Self-closing, leak-proof, easily cleanable, insect-proof and rodent-proof waste receptacles shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other items. Plastic bags and wet strength paper bags may be used to line the receptacles. Soiled waste receptacles shall be cleaned at such frequency as is necessary to prevent insect and rodent attraction.

Waste receptacles shall not be located within the vending machines, with the exception of those machines dispensing only packaged food with crown closures and ring tabs; in which case, the closure receptacles may be located under counters or otherwise enclosed in a manner that will not create a nuisance or prevent space around and under the counter or enclosure from being easily cleaned and maintained. Suitable racks or cases shall be provided for multiuse containers or bottles.

(c) Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. Such machines shall be equipped with an automatic shut-off device at the waste pail or other devices or valves which will place the machine out of operation before the waste pail overflows. Such devices shall prevent water or liquid product from continuously running in the event of the failure of any single control, high level control, or other flow-control device in the liquid product or water system.

Controlled location vending machines not connected to a water supply system, ~~and~~ which generate no internal liquid wastes may be equipped with easily removable drip pans at the dispensing platform in lieu of internal waste containers and automatic shut-off devices. Controlled location vending machines that are connected to a water supply and have no internal waste containers, shall be equipped with at least 2 independently operated controls to prevent the continued flow of water in the event of failure of any single flow-control device.

Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable, and shall be corrosion-resistant. If liquid wastes from drip, spillage or overflow which originate within the machine are discharged into a sewage system, the connection to the sewer shall be through an air gap.

Sec. 20-214. Machine identification, required lettering; records.

(a) On each vending machine there shall be conspicuously and permanently displayed, in letters of at least one-fourth inch in height, the business name, service telephone number and information notifying users of the machine of the telephone number of an agent of the operators where persons can report malfunctions of the machine and request refunds of money put into the machine when the machine has malfunctioned. The telephone number of the health department to which consumers may call to register complaints regarding the sanitation of the machine shall also be conspicuously and permanently displayed on each vending machine other than those machines described in section 20-216 of this Code which do not dispense any potentially hazardous foods. Such information shall be posted in numbers and letters of at least one-fourth inch in height. The health officer may designate the location, wording and manner in which the information required under this section shall be posted on vending machines if he finds that such requirements will aid in notifying consumers of the information, and operators shall comply with such requirements.

(b) All operators of vending machines, except as provided in section 20-216 of this Code, shall:

- (1) Maintain, at the operator's headquarters or at some other designated location within the city, a current list of all vending machines operated by such operator within the city and the complete address of each machine location and of all commissaries or other establishments from which his machines are serviced.

This information shall be furnished to the health officer as a requirement for the renewal of the food dealer's permit and shall be available for inspection by the health officer during regular business hours;

- (2) Notify the health department, in writing, within 30 calendar days of each new location at which vending machines ~~which~~ that dispense potentially hazardous food, hot or cold cup beverages or bulk foods have been placed in operation; and
- (3) Notify the health department, in writing, within 30 calendar days of any change in operations involving new types of vending machines or conversions of existing machines to dispense products other than those for which the machines were originally designed and constructed.

Sec. 20-215. Permits.

(a) No person shall operate one or more vending machines, other than those vending machines which are exempt under section 20-216 of this Code, without first having obtained a food dealer's permit issued by the city health department in accordance with the requirements and provisions of article II of this chapter. Compliance with the requirements of this article and all other applicable provisions of this chapter shall be a condition for the issuance of a food dealer's permit when any vending machines are to be operated by the permit holder.

(b) No person shall operate any vending machine unless the permit holder has notified the health department, in writing, that he intends to operate one or more vending machines under his permit. Upon receipt of such information, the health department shall make a notation on the permit that one or more vending machines are being operated by the permit holder. Such permits are not transferable.

(c) A food dealer's permit may be revoked or suspended for violations of the requirements of this article, for conditions existing in connection with one or more vending machines operated by the permit holder which pose a substantial hazard to public health, for repeated or serious violations of other applicable provisions of this chapter, or repeated or serious violations of federal or state food laws. Any such suspension or revocation shall be made in accordance with the procedures set out in article II of this chapter.

Sec. 20-216. Controlled location machines.

All controlled location vending machines and vending machines which dispense exclusively bottled or canned soft drinks, prepackaged ice, water, candy, cookies, crackers, or similar prepackaged, nonpotentially-hazardous snacks; or, ballgum, nuts, and panned candies are exempt from the requirements of ~~subsections~~ 20-214(b) and ~~section~~ 20-215 of this Code, but shall meet all other applicable requirements of this article.

Sec. 20-217. Inspections.

The health officer, after proper identification, shall be permitted to enter at any reasonable time upon any private or public property where vending machines or commissaries are operated, or from which such machines are otherwise serviced, for the purpose of determining compliance with the

provisions of this article and all other applicable provisions of this chapter. The operator shall make provisions for the health officer to have access to the interior of all food vending machines operated by him in the company of the operator or his employee.

Sec. 20-218. Inspection reports.

(a) Whenever an inspection of a food vending machine or machines is made, the original of the completed inspection form shall be furnished to the operator. A copy shall be made and, the copy shall become part of the health officer's permanent files.

(b) Whenever the health officer discovers a violation of any provision of this article or other applicable laws, he shall notify the operator concerned either by the inspection report form or by other written notice. Such form or notice shall:

- (1) Describe the condition found; and
- (2) Provide a specific period of time for the correction of the condition.

(c) The provisions of this section shall not relieve any person of criminal or civil penalties for such violation.

Sec. 20-219. Compliance; penalties for violation.

(a) No person shall place or cause to be placed any food in a vending machine in the city unless the vending machine and the food placed in such machine are in full compliance with all applicable provisions of this article and all other applicable laws.

(b) A permit holder shall ~~insure~~ ensure that all vending machines which he is operating and all food placed in such machines are in full compliance with this article and all other applicable laws.

(c) Whenever the health officer shall find any article of food which is adulterated, misbranded or ~~which is~~ detrimental to public health, he shall cause such article to be tagged or otherwise properly marked as provided by law. When it is not possible to tag the articles of food within a vending machine, the health officer shall cause the machine containing the food items in question to be tagged.

(d) Any person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$2,000.00; provided however, if such person is convicted of an offense under this article which offense is also a violation of the penal laws of the state, such person shall be subject to the penalties set out in the penal laws of Texas for the offense.

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance amending Section 20-22 of the code of Ordinances, Houston, Texas, relating to the operation of mobile food units and commissaries		Category #	Page 1 of <u>1</u>	Agenda Item # 12
FROM (Department or other point of origin): Houston Department of Health and Human Services		Origination Date August 27, 2007	Agenda Date SEP 05 2007	
DIRECTOR'S SIGNATURE <i>Stephen L. Williams</i> Stephen L. Williams, M.Ed., M.P.A., Director		Council District affected: All		
For additional information contact: Kathy Barton 713-794-9998 or 713-826-5801		Date and identification of prior authorizing Council action:		
RECOMMENDATION: Approval of an ordinance amending Chapter 20 of the Code of Ordinances, Houston, Texas, relating to the operation of mobile food units and commissaries				
Amount and Source of Funding: N/A			F & A Budget:	
SPECIFIC EXPLANATION: The proposed ordinance amends Section 20-22 to enhance the regulation of mobile food units ("MFU") and commissaries as follows:				
<ul style="list-style-type: none"> • Section 20-22(a) is amended to provide definitions of terms used in this section; • Section 20-22(b) is amended by clarifying that this section is enforceable by any peace or health officer; • Section 20-22(c) is amended by clarifying the requirements for a MFU operator to obtain a medallion for operation which include the following: <ul style="list-style-type: none"> ○ Requiring the operator to provide the Department a list of locations where his MFU will be in operation and to provide written notice at least two business days prior to beginning operations at or relocating to any location not currently included on the list of active locations submitted to the department; ○ Requiring the operator to display the consent to operate on private property in plain view of the public at all times. It also provides that the MFU operator must immediately cease operations and remove the MFU from property upon receipt of a citation for violation of this provision; ○ The operator must prove that a flushable toilet located in a business establishment is located with 500 feet of where the MFU is in operation for more than one hour. A copy of a notarized statement of consent from the owner of the business must be displayed in the MFU in plain view of the public at all times. The MFU operator who receives a citation for violating this provision must immediately cease operations and remove the MFU from that location; ○ An operator must demonstrate mobility if requested by peace officer or health officer; • Section 20-22(d) is amended by providing enhanced sanitation regulations regarding water system, water tanks, and garbage and refuse storage facilities. It also prohibits attaching or setting up other devices or equipment to or around the MFU, such as, providing or allowing a canopy or awning that is not attached to the unit, or a dining area or portable toilet facility within 100 feet of the MFU. Section 20-22(d) is further amended by specifying that quick-connect electrical and telephone services must be in full compliance with the Electrical Code, and by requiring the exterior surfaces of MFUs to be weather-resistant and in compliance with all applicable laws; • Section 20-22(e) is amended by specifying how often each type of MFU must receive commissary services and specifying that MFU operators must maintain servicing records for a period of one year and commissaries must maintain records for a period of two years. It also provides that it is unlawful to falsify servicing records. • Section 20-22(f) is amended by clarifying that commissaries servicing MFUs must be approved and permitted food establishments and specifying that generally, the use of liquid waste transport vehicles to remove and dispose of liquid waste from MFUs is prohibited. It also provides that it is the commissary operator's duty to observe or perform servicing on each MFU and properly complete a servicing record. • Section 20-22(j) is added to establish the penalties for violating this article, which include immediate cessation of operations, the suspension or revocation of the MFUs medallion or the food dealer's permit for the commissary, the issuance of a citation for a class C misdemeanor, filing of a criminal charge under Sec. 37.10, Texas Penal Code, for Tampering with a governmental record, or the filing of an injunction. Section 20-22(k) is added to make it unlawful to tamper with the electronic technology system. 				
REQUIRED AUTHORIZATION				
F & A Director		Other Authorization:		Other Authorization:

MS

eng

Redline of § 20-22

Sec. 20-22. Mobile food service units and commissaries.

(a) Definitions. When used in this subsection, the following words, terms and phrases shall have the meanings ascribed to them in this subsection, unless the context clearly indicates a different meaning:

Catering establishment shall have the meaning ascribed in section 20-18 of this Code.

Commissary shall have the meaning ascribed in section 20-18 of this Code.

Fixed location mobile food unit shall mean a mobile food unit that is restricted to operation on the premises of a permitted food establishment that serves as the commissary for the fixed location unit. A fixed location unit must be easily movable and maneuverable by one person when the unit is fully loaded.

Food service establishment shall have the meaning ascribed in section 20-18 of this Code.

Licensed park vendor shall mean a mobile food unit used by a vendor licensed under article IX of Chapter 32 of this Code.

Mobile food unit shall have the meaning ascribed in section 20-18 of this Code.

Restricted operations mobile food unit shall mean a mobile food unit that serves no food other than: (1) food that was prepared and packaged in individual servings at an approved commissary and transported and stored under conditions meeting the requirements of this article; (2) beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment; (3) potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant; and (4) prepackaged individual serving frozen dessert items including, without limitation, frozen ice and ice cream novelty bars, cones and serving cups that have been packaged at a pasteurizing plant or other approved facility.

(b) General. All mobile food units shall comply with all applicable laws, including the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of mobile food units and may prohibit the sale of potentially hazardous foods. The provisions of this section shall be enforceable by any peace officer or health officer.

(c) Issuance of medallions for operation of mobile food units.

(1) Medallions. All mobile food units shall obtain a medallion from the department prior to operating. Operation of a mobile food unit without a medallion is prohibited.

(2) Submission of plans. Prior to the issuance of a medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall provide the following to the department:

a. A written standard operating procedure for each mobile food unit that must include provisions for:

[1] Food unit's waste water disposal site and process; and

[2] Other servicing operations details; and

- b. Two sets of drawings that must clearly specify and address the proposed layout, surface finish schedule, arrangement and construction material of the mobile food unit, and that must include, without limitation, the proposed layout, arrangement and sizes of plumbing fixtures and connections.

The provisions of this item (2) shall not be applicable to renewals, provided that the applicant certifies in writing to the health officer that the previously provided procedures and plans are still valid.

- (3) ***Locations of operation.*** Prior to the issuance of any initial or renewal medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall submit to the department a list of locations where the mobile food unit will be in operation. The operator shall also give written notice at least two business days prior to beginning operations at or relocating operations to any location not ~~currently~~ previously included on the list of active locations submitted to the department.
- (4) ***Operation on private property.*** Prior to the issuance of a medallion or renewal, ~~the~~ operator of a mobile food unit other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit, to that will be operated on private property for more than one hour in a single day shall submit to the department proof of his ownership of the private property or a signed and notarized written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, granting permission for operation of the mobile food unit at the proposed location where the mobile food unit will be in operation. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers ~~one of the principals~~ prior to issuance of any initial or renewal medallion. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.
- (5) ***Access to toilets.*** Prior to the issuance of a medallion or renewal, the operator of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit, to be operated on private property shall submit to the department proof of availability of restrooms with flushable toilets located in a business establishment within 500 feet of each location where the mobile food unit will be in operation for more than 1 hour in any single day. Proof of availability of adequate facilities shall be in the form of a signed and notarized written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, and the type of business and hours of operation, granting permission for use of the facilities. If the business owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.
- (f) (6) ***Identification of mobile food units Signage.*** Every mobile food unit must be readily identifiable by business name, printed, permanently affixed, and prominently displayed upon at least two sides of the unit, in letters not less than three inches in height.
- (7) ***Mobility.*** A mobile food unit must demonstrate mobility at any reasonable time if requested by any peace officer or health officer.

- (8) ~~Special requirements for a~~ **Use of LP-gas in mobile food units.** In addition to complying with the applicable requirements of this chapter, ~~t~~The operator of a mobile food unit in, on or in conjunction with which LP-gas is used to cook or otherwise prepare food shall obtain from the fire department a permit for the use of LP-gas and LP-gas equipment for each mobile food unit and shall make the permit available for inspection and/or copying upon the request of any peace officer, fire department employee, or health officer.

(d) ~~Items of s~~**Sanitation.** In addition to complying with the requirements of this section, all mobile food units shall comply with the following items of sanitation:

- (1) ~~Item 1.~~ **Single-service articles.** Mobile food units shall provide only single-service articles for use by the consumer.

- (2) ~~Item 2.~~ **Water systems.** A mobile food unit, other than a restricted operations mobile food unit, shall have a potable water system under pressure. All water used in connection with the mobile food unit shall be from sources approved by the health officer. The water system shall include a potable water tank of not less than 30 gallons capacity for conventional mobile food units and not less than 5 gallons capacity for units used by a vendor licensed under chapter 32, article IX of this Code and for fixed location mobile food units. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitization, and hand-washing, in accordance with the requirements of this article. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing and potable water tanks shall be constructed of materials meeting standards established by an American National Standards Institute (ANSI) or other approved accredited certification program and installed according to the requirements of this article. Connection to a water system at an operational location is prohibited. The water system shall comply with the following additional items:

a. Tank design and construction. A mobile food unit's water tank shall be enclosed from the filling inlet to the discharge outlet and sloped to an outlet that allows complete drainage of the tank.

b. Tank inspection and cleaning port, protected and secured. If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

[1] Flanged upward at least 13 mm (one-half inch);

[2] Equipped with a port cover assembly that is provided with a gasket and a device for securing the cover in place; and

[3] Flanged to overlap the opening and sloped to drain.

c. 'V' type threads, use limitation. A fitting with 'V' type threads on water tank inlets or outlets shall be allowed only when a hose is permanently attached.

d. Tank vent, protected. If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

[1] A screen of 16 mesh to one inch or equivalent when the vent is in a protected area; or

[2] A protective filter when the vent is in an area that is not protected from wind blown dirt and debris.

- e. Protective cover or device. A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for each water inlet, outlet, and hose.
- (3) **Mobile food establishment water tanks, when required.** Materials that are used in the construction of a mobile food unit water tank and appurtenances shall be safe, durable, corrosion-resistant, and nonabsorbent, and finished to have an easily cleanable surface.
- a. Tank hose, construction and identification. A hose used for conveying drinking water from a water tank shall be safe; durable, corrosion-resistant, and nonabsorbent; resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition; finished with a smooth interior surface; and clearly and durably identified as to its use if not permanently attached.
- b. Tank filter, compressed air. A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and the drinking water system when compressed air is used to pressurize the water tank system.
- c. Mobile food unit tank inlet. A mobile food unit water tank inlet shall be 19.1 mm (three-fourths inch) in inner diameter or less and provided with a hose connection of the size or type that will prevent its use for any other service.
- d. Operation and maintenance system flushing. A water tank, pump, and hoses shall be flushed and sanitized at an approved commissary before being placed in service after construction, repair, modification, and periods of nonuse.
- e. Using a pump and hoses; backflow prevention. An individual shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.
- f. Protecting inlets, outlets, and hose fittings. If not in use, a water tank and hose inlet and outlet fittings shall be protected using a cover or device as specified in sub-item g below.
- g. Tank, pump, and hoses; dedication. A water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose. Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.
- (3)(4) **Item 3. Waste retention.** If liquid waste results from operation of a mobile food unit, it shall be stored in permanently installed vented retention tanks that are at least 15 percent larger than the water supply tank. A mobile food unit waste retention tank shall be sloped to an outlet that allows complete drainage of the tank during servicing operations. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion or at an operational location. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection to preclude contamination of the potable water system. Connection to a sewerage system at an operational location is prohibited.
- (4)(5) **Item 4. Garbage and refuse.** A mobile food unit shall have adequate and approved garbage and refuse storage facilities for the operator's use and shall have garbage and refuse storage facilities attached to the exterior of the mobile food unit that are insect and rodent-proof for customers' use. Disposal shall be in accordance with section 20-21.20 of this Code.

- (5)(6) **Item 5. Damage report.** Any accident involving a mobile food unit shall be reported within 24 hours of the time the accident occurred if the accident results in damage to the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being carried or any damage that results in a violation of this section. Reports shall be made by the holder of the mobile food unit medallion.
- (6)(7) **Item 6. Operation capacity limited.** The owner/operator of a mobile food unit shall prepare, serve, store and display food and beverages on or in the mobile food unit itself and shall not attach, set up or use any other device or equipment intended to increase selling, serving, storage, or display capacity of the mobile food unit. It shall be unlawful for the operator of a mobile food unit to:
- a. Allow items, such as but not limited to brooms, mops, hoses, equipment, containers and boxes or cartons, to remain adjacent to or beneath the mobile food unit;
 - b. Provide or allow any sign or banner to remain that is not attached to and solely supported by the mobile food unit;
 - c. Provide or allow any canopy, awning or other covering that is not attached to and solely supported by the mobile food unit to remain over any part of the mobile food unit or over any area within 100 feet of the mobile food unit, except that any awning or covering provided by others and primarily used for other purposes and only incidentally or coincidentally used by the mobile food unit shall not be considered a violation of this subsection;
 - d. Provide or allow any portable toilet facility within 100 feet of the mobile food unit; and
 - e. Provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, within 100 feet of the mobile food unit. Dining areas or seating areas adjacent to fixed location mobile food units operating inside of an enclosed space such as a mall or lobby or park vending units where the seating is provided by someone other than the mobile food unit operator and only incidentally or coincidentally used by the patrons of the mobile food unit are acceptable if approved by the health officer.
- (7)(8) **Item 7. Utilities-Utility connections.** Utility connections, if any, shall be limited to quick-connect electrical and telephone services and shall be in full compliance with the Electrical Code. Utility connections for water, sewerage and gas are prohibited.
- (9) **Exterior surfaces.** Exterior surfaces of mobile food units shall be of weather-resistant materials and shall comply with all applicable laws.
- (e) Servicing of mobile food units by commissaries; servicing records.
- (1) **Servicing by commissaries.** Mobile food units, other than restricted service mobile food units, shall operate from a commissary approved by the health officer and shall report to such location for supplies, cleaning, and servicing operations as follows:
- a. Fixed location mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.
 - b. Licensed park vendor mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.

- c. All other mobile food units shall return to the commissary for the performance of all servicing operations within the 24-hour period preceding operations.
- (2) **Servicing records.** It shall be unlawful for an operator of a mobile food unit, other than a restricted service mobile food unit, to be in operation without a valid servicing record in his possession.
- (3) **Servicing records to be kept by mobile food unit operators.** The operator of a mobile food unit, other than a restricted operations mobile food unit, shall keep and maintain servicing records on the mobile food unit for a period of one year from the date of servicing. The servicing records must be immediately available to any peace officer or health officer for inspection and copy at the mobile food unit during the mobile food unit's hours of operation.
- (4) **Servicing records to be kept by commissaries.** The commissary from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit in a manner and form prescribed by the health officer. The permit holder, person in charge, employee, or representative of any commissary shall keep and maintain servicing records at the commissary for a period of two years from the date of servicing or until retrieved by the health officer, whichever comes first. Servicing records maintained at the commissary shall be immediately available to any peace officer or health officer for inspection and copying during normal business hours.
- (5) **Falsification of servicing records.** It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary to issue a servicing record without first verifying that the mobile unit has complied with all servicing requirements. It shall be unlawful for any owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to knowingly present or issue any false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with this subsection.
- (6) **Maintenance of servicing records.** The health officer may promulgate rules and procedures regarding maintenance of the servicing records by the commissaries and mobile food units. The health officer may require the use of electronic or other technology to facilitate or monitor compliance with the requirements of this chapter.

~~(g) Commissary, general. Mobile food units shall operate from a commissary or other fixed food service establishment that is constructed and operated in compliance with the requirements of this article and other applicable laws. Using a private residence as a commissary for a mobile food unit is prohibited. Only those food establishments that initially and continually meet the requirements of this subsection and subsection 20.22(c) and (h) applicable to commissary operations shall be approved by the health officer to service mobile food units.~~

~~The commissary servicing any mobile food unit other than a restricted operations mobile food unit shall be an approved and permitted food establishment at which the mobile food unit is supplied with fresh water, emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food contact surfaces or items not capable of being immersed in the mobile food unit utensil washing sink.~~

~~Each mobile food unit other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit shall return to the commissary at least once per each day of operation for the performance of all servicing operations. Licensed park vending units and fixed location mobile food units shall return to the commissary at least once per each day of operation for the performance of all servicing operations. The use of liquid waste transport vehicles, otherwise known as vacuum trucks, for the removal and disposal of liquid waste resulting from mobile food unit operations is~~

prohibited. ~~Provided, however, that a fixed location mobile food unit operating exclusively in a permanent nonresidential building that is primarily used for other purposes, such as a retail shopping mall, office atrium, or hospital lobby, may utilize other means to fill water tanks and to drain and flush wastewater tanks if approved by the health officer.~~

(f) Commissaries.

(1) **Permitting of commissaries as food establishments.** A commissary servicing any mobile food unit, other than a restricted service mobile food, unit shall be an approved and permitted food establishment at which the mobile food unit is supplied with fresh water, emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the mobile food unit utensil-washing sink.

(2) **Permitting of commissaries as food dealers.** A commissary shall acquire and maintain a valid food dealer's permit and meet all requirements of this article including, but not limited to:

a. Maintenance of proper structures pursuant to section 20-21.28 of this Code;

b. Issuance and maintenance of servicing records and maintenance of equipment pursuant to subsection 20-22(c) and (h) of this Code; and

c. Compliance with all other applicable rules and operational guidelines as may be promulgated by the health officer.

(3) **Private residences.** Use of a private residence as a commissary is prohibited.

(4) **Commissary servicing area and operations.**

a. An enclosed service building separated from commissary operations shall be provided for supplying and maintaining mobile food units. The servicing area shall be at an approved location and constructed and operated in compliance with the requirements of this article. Fixed location mobile food units authorized under this article and mobile food units licensed under article IX of Chapter 32 of this Code shall be stored in the servicing area except while in operation for food service and during transport to and from the service building. A fixed location mobile food unit that does not fully meet the foregoing storage requirements and ~~is permitted~~ was first operated under a medallion on or before February 13, 2000, shall be exempt from this requirement provided that the operation continues under the same ownership and the medallion is continuously renewed without lapse or termination and provided that the permit holder uses alternative storage arrangements that are approved by the health officer.

(2) b. **Servicing operations.**

a.[1] Potable water-servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.

b.[2] The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with section 20-21.16 of this Code. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies.

- e- [3] Vehicle cleaning and in-place cleaning of nonfood-contact surfaces of equipment not requiring sanitization shall be done with potable water and shall be done in a manner that will not contaminate the vehicle's food storage or food preparation areas or equipment. If hoses are used in the cleaning process, they shall be food-grade and kept off the floor or pavement, on racks or by other approved suitable means, and the system shall meet the requirements of section 20-21.17 of this Code. All cleaning areas shall be paved with a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt, which is sloped to drain toward an approved catch basin or floor drain where the liquid waste can be disposed of in accordance with the requirements of section 20-21.16 of this Code.
- ~~e- [4] The use of liquid waste transport vehicles, otherwise known as vacuum trucks, for the removal and disposal of liquid waste resulting from mobile food unit operations is prohibited. Provided, however, that a fixed location mobile food unit operating exclusively in a permanent nonresidential building that is primarily used for other purposes, such as a retail shopping mall, office atrium, or hospital lobby, may utilize other means to fill water tanks and to drain and flush wastewater tanks if approved by the health officer.~~
- e- [5] Servicing operations may be performed by the commissary operator or by the mobile food unit operator. It shall be the commissary operator's responsibility to observe or perform servicing on each mobile food unit and properly complete a servicing record as prescribed by the health officer. It is the responsibility of the mobile food unit operator to confirm that the requirements of this section are fulfilled prior to resuming operations.

~~(j)(g) Special requirements for mobile food units operated by licensed park vendors.~~ In addition to complying with the other applicable requirements of this chapter, a mobile food unit operated by a vendor licensed under article IX of chapter 32 of this Code, must meet the following requirements:

- (1) ~~**Item 1.**~~ A unit shall not exceed four feet in width, eight feet in length and eight feet in height including the unit's shade umbrella. In the event of an emergency, the unit must be easily movable, controllable, and maneuverable by one person when the unit is fully loaded. A unit shall have at least two operable rubber or rubber-like wheels that are less than eight inches in diameter. The bottom of the unit shall be at least one foot from the ground. The unit shall be non-motorized.
- (2) ~~**Item 2.**~~ Each unit shall have protective glass guards and a roof or a shade umbrella to protect against exposure to insects, rodents, dust, or other contamination. Each unit shall have ample space available on the sides of the unit to display the prices of food, the name and street address of the vendor, and the medallion issued under section 20-37 of this Code.
- (3) ~~**Item 3.**~~ Each unit shall have a litter receptacle attached to the unit available, clearly marked, and maintained for patron use. This litter receptacle shall have not less than a twenty-gallon capacity and shall be composed of a leak-proof, nonabsorbent material.
- (4) ~~**Item 4.**~~ The interior of a unit shall be equipped with cabinet units or compartments. All food-contact surfaces shall be smooth, easily accessible and cleanable. Unfinished or painted wood shall not be used as a food-contact surface. Units that will dispense

beverages must be equipped to do so from a closed carbonation system or bulk dispensing units or to distribute packaged beverages.

~~(k)~~(h) *Special requirements for fixed location mobile food units.* A mobile food unit that does not meet all criteria applicable to the permitting of a conventional mobile food unit may be permitted on a fixed location only basis, provided:

- (1) The unit complies with the same criteria stated in items (1), (2), (3) and (4) of subsection (g) above for units operated by licensed park vendors;
- (2) The unit shall be restricted to operation on the premises of one food establishment that holds a valid permit under this article, and the commissary serving the unit shall be located in that establishment; and
- (3) The commissary shall meet all applicable requirements of state law and city ordinances.

A fixed location mobile food unit that does not fully meet the requirements of item (1) of subsection (g) above and ~~is permitted~~ was first operated under a medallion on or before February 13, 2000, shall be exempt from the requirements of item (1) of subsection (j) above provided that the operation continues under the same ownership and the ~~permit and~~ medallion is continuously renewed without lapse or termination.

If the operator of the unit is not the operator of the food establishment, then the operator shall be required to furnish written proof of permission of the person who operates the food establishment premises to utilize the unit and commissary on the premises. In the event that the permit issued under this article for the food establishment on whose premises the unit and its commissary are situated expires without timely renewal or is revoked or suspended, the unit's medallion shall automatically be suspended until and unless the permit for the food establishment is restored to valid status.

(i) *Alternatives; waivers.* The director of health and human services or any assistant or deputy director may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a mobile food unit. Any authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the director of health and human services or any assistant or deputy director may waive any requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the mobile food unit. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

(j) Enforcement of this article. Failure by a mobile food unit or a commissary to comply with the requirements set forth in this article or rules promulgated by the health officer shall be unlawful and may result in one or more of the following penalties:

- (1) Immediate cessation of operations;
- (2) The suspension or revocation of the mobile food unit's medallion or the food dealer's permit for that commissary pursuant to sections 20-41 and 20-42 of this Code;
- (3) The issuance of a citation for a class C misdemeanor pursuant to subsection 20-19(c) of this Code for every day of noncompliance;
- (4) The filing of a criminal charge under Section 37.10 of the Texas Penal Code for the offense of Tampering with Governmental Record; and

(5) The filing of a suit in district court by the city attorney to enjoin a food service establishment from operating without a permit or a medallion if a permit or medallion is required.

(k) *Additional offense.* It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to remove, disable or otherwise tamper with any electronic technology installed to facilitate or monitor compliance with the requirements of this chapter.

City of Houston, Texas, Ordinance No. 2007-_____

AN ORDINANCE AMENDING SECTION 20-22 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO MOBILE FOOD UNITS AND COMMISSARIES; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL AND PROVIDING PENALTIES THEREFOR; CONTAINING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

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

Section 1. That Section 20-22 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 20-22. Mobile food units and commissaries.

(a) *Definitions.* When used in this subsection, the following words, terms and phrases shall have the meanings ascribed to them in this subsection, unless the context clearly indicates a different meaning:

Catering establishment shall have the meaning ascribed in section 20-18 of this Code.

Commissary shall have the meaning ascribed in section 20-18 of this Code.

Fixed location mobile food unit shall mean a mobile food unit that is restricted to operation on the premises of a permitted food establishment that serves as the commissary for the fixed location unit. A fixed location unit must be easily movable and maneuverable by one person when the unit is fully loaded.

Food service establishment shall have the meaning ascribed in section 20-18 of this Code.

Licensed park vendor shall mean a mobile food unit used by a vendor licensed under article IX of Chapter 32 of this Code.

Mobile food unit shall have the meaning ascribed in section 20-18 of this Code.

Restricted operations mobile food unit shall mean a mobile food unit that serves no food other than: (1) food that was prepared and

packaged in individual servings at an approved commissary and transported and stored under conditions meeting the requirements of this article; (2) beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment; (3) potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant; and (4) prepackaged individual serving frozen dessert items including, without limitation, frozen ice and ice cream novelty bars, cones and serving cups that have been packaged at a pasteurizing plant or other approved facility.

(b) *General.* All mobile food units shall comply with all applicable laws, including the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of mobile food units and may prohibit the sale of potentially hazardous foods. The provisions of this section shall be enforceable by any peace officer or health officer.

(c) *Issuance of medallions for operation of mobile food units.*

- (1) **Medallions.** All mobile food units shall obtain a medallion from the department prior to operating. Operation of a mobile food unit without a medallion is prohibited.
- (2) **Submission of plans.** Prior to the issuance of a medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall provide the following to the department:
 - a. A written standard operating procedure for each mobile food unit that must include provisions for:
 - [1] Food unit's waste water disposal site and process; and
 - [2] Other servicing operations details; and
 - b. Two sets of drawings that must clearly specify and address the proposed layout, surface finish schedule, arrangement and construction material of the mobile food unit, and that must include, without limitation, the proposed layout, arrangement and sizes of plumbing fixtures and connections.

The provisions of this item (2) shall not be applicable to renewals, provided that the applicant certifies in writing to the health officer that the previously provided procedures and plans are still valid.

- (3) **Locations of operation.** Prior to the issuance of any initial or renewal medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall submit to the department a list of locations where the mobile food unit will be in operation. The operator shall also give written notice at least two business days prior to beginning operations at or relocating operations to any location not currently included on the list of active locations submitted to the department.
- (4) **Operation on private property.** Prior to the issuance of a medallion or renewal, the operator of a mobile food unit that will be operated on private property for more than one hour in a single day shall submit to the department proof of ownership of the property or a signed and notarized written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, granting permission for operation of the mobile food unit at the proposed location. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.
- (5) **Access to toilets.** Prior to the issuance of a medallion or renewal, the operator of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit, to be operated on private property shall submit to the department proof of availability of restrooms with flushable toilets located in a business establishment within 500 feet of each location where the mobile food unit will be in operation for more than 1 hour in any single day. Proof of availability of adequate facilities shall be in the form of a signed and notarized written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, and the type of business and hours of operation, granting

permission for use of the facilities. If the business owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.

- (6) **Signage.** Every mobile food unit must be readily identifiable by business name, printed, permanently affixed, and prominently displayed upon at least two sides of the units, in letters not less than three inches in height.
- (7) **Mobility.** A mobile food unit must demonstrate mobility at any reasonable time if requested by any peace officer or health officer.
- (8) **Use of LP-gas.** The operator of a mobile food unit in, on or in conjunction with which LP-gas is used to cook or otherwise prepare food shall obtain from the fire department a permit for the use of LP-gas and LP-gas equipment for each mobile food unit and shall make the permit available for inspection and/or copying upon the request of any peace officer, fire department employee, or health officer.

(d) **Sanitation.** In addition to complying with the requirements of this section, all mobile food units shall comply with the following items of sanitation:

- (1) **Single-service articles.** Mobile food units shall provide only single-service articles for use by the consumer.
- (2) **Water systems.** A mobile food unit, other than a restricted operations mobile food unit, shall have a potable water system under pressure. All water used in connection with the mobile food unit shall be from sources approved by the health officer. The water system shall include a potable water tank of not less than 30 gallons capacity for conventional mobile food units and not less than 5 gallons capacity for units used by a vendor licensed under chapter 32, article IX of this Code and for fixed location mobile food units. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitization, and hand-

washing, in accordance with the requirements of this article. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing and potable water tanks shall be constructed of materials meeting standards established by an American National Standards Institute (ANSI) or other approved accredited certification program and installed according to the requirements of this article. Connection to a water system at an operational location is prohibited. The water system shall comply with the following additional items:

- a. Tank design and construction. A mobile food unit's water tank shall be enclosed from the filling inlet to the discharge outlet and sloped to an outlet that allows complete drainage of the tank.
- b. Tank inspection and cleaning port, protected and secured. If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:
 - [1] Flanged upward at least 13 mm (one-half inch);
 - [2] Equipped with a port cover assembly that is provided with a gasket and a device for securing the cover in place; and
 - [3] Flanged to overlap the opening and sloped to drain.
- c. 'V' type threads, use limitation. A fitting with 'V' type threads on water tank inlets or outlets shall be allowed only when a hose is permanently attached.
- d. Tank vent, protected. If provided, a water tank vent shall terminate in a downward direction and shall be covered with:
 - [1] A screen of 16 mesh to one inch or equivalent when the vent is in a protected area; or

- [2] A protective filter when the vent is in an area that is not protected from wind blown dirt and debris.
- e. Protective cover or device. A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for each water inlet, outlet, and hose.
- (3) **Mobile food establishment water tanks, when required.** Materials that are used in the construction of a mobile food unit water tank and appurtenances shall be safe, durable, corrosion-resistant, and nonabsorbent, and finished to have an easily cleanable surface.
- a. Tank hose, construction and identification. A hose used for conveying drinking water from a water tank shall be safe; durable, corrosion-resistant, and nonabsorbent; resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition; finished with a smooth interior surface; and clearly and durably identified as to its use if not permanently attached.
- b. Tank filter, compressed air. A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and the drinking water system when compressed air is used to pressurize the water tank system.
- c. Mobile food unit tank inlet. A mobile food unit water tank inlet shall be 19.1 mm (three-fourths inch) in inner diameter or less and provided with a hose connection of the size or type that will prevent its use for any other service.
- d. Operation and maintenance system flushing. A water tank, pump, and hoses shall be flushed and sanitized at an approved commissary before being placed in service after construction, repair, modification, and periods of nonuse.
- e. Using a pump and hoses; backflow prevention. An individual shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

- f. Protecting inlets, outlets, and hose fittings. If not in use, a water tank and hose inlet and outlet fittings shall be protected using a cover or device as specified in sub-item g below.
 - g. Tank, pump, and hoses: dedication. A water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose. Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.
- (4) **Waste retention.** If liquid waste results from operation of a mobile food unit, it shall be stored in permanently installed vented retention tanks that are at least 15 percent larger than the water supply tank. A mobile food unit waste retention tank shall be sloped to an outlet that allows complete drainage of the tank during servicing operations. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion or at an operational location. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection to preclude contamination of the potable water system. Connection to a sewerage system at an operational location is prohibited.
- (5) **Garbage and refuse.** A mobile food unit shall have adequate and approved garbage and refuse storage facilities for the operator's use and shall have garbage and refuse storage facilities attached to the exterior of the mobile food unit that are insect and rodent-proof for customers' use. Disposal shall be in accordance with section 20-21.20 of this Code.
- (6) **Damage report.** Any accident involving a mobile food unit shall be reported within 24 hours of the time the accident occurred if the accident results in damage to the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being carried or any damage that results in a violation of this section. Reports shall be made by the holder of the mobile food unit medallion.

- (7) **Operation capacity limited.** The operator of a mobile food unit shall prepare, serve, store and display food and beverages on or in the mobile food unit itself and shall not attach, set up or use any other device or equipment intended to increase selling, serving, storage, or display capacity of the mobile food unit. It shall be unlawful for the operator of a mobile food unit to:
- a. Allow items, such as but not limited to brooms, mops, hoses, equipment, containers and boxes or cartons, to remain adjacent to or beneath the mobile food unit;
 - b. Provide or allow any sign or banner to remain that is not attached to and solely supported by the mobile food unit;
 - c. Provide or allow any canopy, awning or other covering that is not attached to and solely supported by the mobile food unit to remain over any part of the mobile food unit or over any area within 100 feet of the mobile food unit, except that any awning or covering provided by others and primarily used for other purposes and only incidentally or coincidentally used by the mobile food unit shall not be considered a violation of this subsection;
 - d. Provide or allow any portable toilet facility within 100 feet of the mobile food unit; and
 - e. Provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, within 100 feet of the mobile food unit. Dining areas or seating areas adjacent to fixed location mobile food units operating inside of an enclosed space such as a mall or lobby or park vending units where the seating is provided by someone other than the mobile food unit operator and only incidentally or coincidentally used by the patrons of the mobile food unit are acceptable if approved by the health officer.
- (8) **Utility connections.** Utility connections, if any, shall be limited to quick-connect electrical and telephone services and shall be in full compliance with the Electrical Code. Utility connections for water, sewerage and gas are prohibited.

- (9) **Exterior surfaces.** Exterior surfaces of mobile food units shall be of weather-resistant materials and shall comply with all applicable laws.
- (e) *Servicing of mobile food units by commissaries; servicing records.*
- (1) **Servicing by commissaries.** Mobile food units, other than restricted service mobile food units, shall operate from a commissary approved by the health officer and shall report to such location for supplies, cleaning, and servicing operations as follows:
- a. Fixed location mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.
 - b. Licensed park vendor mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.
 - c. All other mobile food units shall return to the commissary for the performance of all servicing operations within the 24-hour period preceding operations.
- (2) **Servicing records.** It shall be unlawful for an operator of a mobile food unit, other than a restricted service mobile food unit, to be in operation without a valid servicing record in his possession.
- (3) **Servicing records to be kept by mobile food unit operators.** The operator of a mobile food unit, other than a restricted operations mobile food unit, shall keep and maintain servicing records on the mobile food unit for a period of one year from the date of servicing. The servicing records must be immediately available to any peace officer or health officer for inspection and copy at the mobile food unit during the mobile food unit's hours of operation.
- (4) **Servicing records to be kept by commissaries.** The commissary from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit in a manner and form prescribed by the health officer. The permit holder, person in charge, employee, or representative of any

commissary shall keep and maintain servicing records at the commissary for a period of two years from the date of servicing or until retrieved by the health officer, whichever comes first. Servicing records maintained at the commissary shall be immediately available to any peace officer or health officer for inspection and copying during normal business hours.

- (5) ***Falsification of servicing records.*** It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary to issue a servicing record without first verifying that the mobile unit has complied with all servicing requirements. It shall be unlawful for any owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to knowingly present or issue any false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with this subsection.
 - (6) ***Maintenance of servicing records.*** The health officer may promulgate rules and procedures regarding maintenance of the servicing records by the commissaries and mobile food units. The health officer may require the use of electronic or other technology to facilitate or monitor compliance with the requirements of this chapter.
- (f) *Commissaries.*
- (1) ***Permitting of commissaries as food establishments.*** A commissary servicing any mobile food unit, other than a restricted service mobile food, unit shall be an approved and permitted food establishment at which the mobile food unit is supplied with fresh water, emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the mobile food unit utensil-washing sink.
 - (2) ***Permitting of commissaries as food dealers.*** A commissary shall acquire and maintain a valid food dealer's permit and meet all requirements of this article including, but not limited to:
 - a. Maintenance of proper structures pursuant to section 20-21.28 of this Code;

- b. Issuance and maintenance of servicing records and maintenance of equipment pursuant to subsection 20-22(c) and (h) of this Code; and
 - c. Compliance with all other applicable rules and operational guidelines as may be promulgated by the health officer.
- (3) ***Private residences.*** Use of a private residence as a commissary is prohibited.
- (4) ***Commissary servicing area and operations.***
- a. An enclosed service building separated from commissary operations shall be provided for supplying and maintaining mobile food units. The servicing area shall be at an approved location and constructed and operated in compliance with the requirements of this article. Fixed location mobile food units authorized under this article and mobile food units licensed under article IX of Chapter 32 of this Code shall be stored in the servicing area except while in operation for food service and during transport to and from the service building. A fixed location mobile food unit that does not fully meet the foregoing storage requirements and was first operated under a medallion on or before February 13, 2000, shall be exempt from this requirement provided that the operation continues under the same ownership and the medallion is continuously renewed without lapse or termination and provided that the permit holder uses alternative storage arrangements that are approved by the health officer.
 - b. *Servicing operations.*
 - [1] Potable water-servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.
 - [2] The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with section 20-

21.16 of this Code. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies.

- [3] Vehicle cleaning and in-place cleaning of nonfood-contact surfaces of equipment not requiring sanitization shall be done with potable water and shall be done in a manner that will not contaminate the vehicle's food storage or food preparation areas or equipment. If hoses are used in the cleaning process, they shall be food-grade and kept off the floor or pavement, on racks or by other approved suitable means, and the system shall meet the requirements of section 20-21.17 of this Code. All cleaning areas shall be paved with a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt, which is sloped to drain toward an approved catch basin or floor drain where the liquid waste can be disposed of in accordance with the requirements of section 20-21.16 of this Code.
- [4] The use of liquid waste transport vehicles, otherwise known as vacuum trucks, for the removal and disposal of liquid waste resulting from mobile food unit operations is prohibited. Provided, however, that a fixed location mobile food unit operating exclusively in a permanent nonresidential building that is primarily used for other purposes, such as a retail shopping mall, office atrium, or hospital lobby, may utilize other means to fill water tanks and to drain and flush wastewater tanks if approved by the health officer.
- [5] Servicing operations may be performed by the commissary operator or by the mobile food unit operator. It shall be the commissary operator's responsibility to observe or perform servicing on each mobile food unit and properly complete a servicing record as prescribed by the health officer. It is the responsibility of the mobile food

unit operator to confirm that the requirements of this section are fulfilled prior to resuming operations.

(g) *Special requirements for mobile food units operated by licensed park vendors.* In addition to complying with the other applicable requirements of this chapter, a mobile food unit operated by a vendor licensed under article IX of chapter 32 of this Code, must meet the following requirements:

- (1) A unit shall not exceed four feet in width, eight feet in length and eight feet in height including the unit's shade umbrella. In the event of an emergency, the unit must be easily movable, controllable, and maneuverable by one person when the unit is fully loaded. A unit shall have at least two operable rubber or rubber-like wheels that are less than eight inches in diameter. The bottom of the unit shall be at least one foot from the ground. The unit shall be non-motorized.
- (2) Each unit shall have protective glass guards and a roof or a shade umbrella to protect against exposure to insects, rodents, dust, or other contamination. Each unit shall have ample space available on the sides of the unit to display the prices of food, the name and street address of the vendor, and the medallion issued under section 20-37 of this Code.
- (3) Each unit shall have a litter receptacle attached to the unit available, clearly marked, and maintained for patron use. This litter receptacle shall have not less than a twenty-gallon capacity and shall be composed of a leak-proof, nonabsorbent material.
- (4) The interior of a unit shall be equipped with cabinet units or compartments. All food-contact surfaces shall be smooth, easily accessible and cleanable. Unfinished or painted wood shall not be used as a food-contact surface. Units that will dispense beverages must be equipped to do so from a closed carbonation system or bulk dispensing units or to distribute packaged beverages.

(h) *Special requirements for fixed location mobile food units.* A mobile food unit that does not meet all criteria applicable to the permitting of a conventional mobile food unit may be permitted on a fixed location only basis, provided:

- (1) The unit complies with the same criteria stated in items (1), (2), (3) and (4) of subsection (g) above for units operated by licensed park vendors;
- (2) The unit shall be restricted to operation on the premises of one food establishment that holds a valid permit under this article, and the commissary serving the unit shall be located in that establishment; and
- (3) The commissary shall meet all applicable requirements of state law and city ordinances.

A fixed location mobile food unit that does not fully meet the requirements of item (1) of subsection (g) above and was first operated under a medallion on or before February 13, 2000, shall be exempt from the requirements of item (1) of subsection (j) above provided that the operation continues under the same ownership and the medallion is continuously renewed without lapse or termination.

If the operator of the unit is not the operator of the food establishment, then the operator shall be required to furnish written proof of permission of the person who operates the food establishment premises to utilize the unit and commissary on the premises. In the event that the permit issued under this article for the food establishment on whose premises the unit and its commissary are situated expires without timely renewal or is revoked or suspended, the unit's medallion shall automatically be suspended until and unless the permit for the food establishment is restored to valid status.

(i) *Alternatives; waivers.* The director of health and human services or any assistant or deputy director may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a mobile food unit. Any authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the director of health and human services or any assistant or deputy director may waive any requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the mobile food unit. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

(j) *Enforcement of this article.* Failure by a mobile food unit or a commissary to comply with the requirements set forth in this article or rules promulgated by the health officer shall be unlawful and may result in one or more of the following penalties:

- (1) Immediate cessation of operations;
- (2) The suspension or revocation of the mobile food unit's medallion or the food dealer's permit for that commissary pursuant to sections 20-41 and 20-42 of this Code;
- (3) The issuance of a citation for a class C misdemeanor pursuant to subsection 20-19(c) of this Code for every day of noncompliance;
- (4) The filing of a criminal charge under Section 37.10 of the Texas Penal Code for the offense of Tampering with Governmental Record; and
- (5) The filing of a suit in district court by the city attorney to enjoin a food service establishment from operating without a permit or a medallion if a permit or medallion is required.

(k) *Additional offense.* It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to remove, disable or otherwise tamper with any electronic technology installed to facilitate or monitor compliance with the requirements of this chapter."

Section 2. That the various former ordinance provisions that are amended in **Section 1** of this Ordinance are saved from repeal for the limited purpose of their continuing application to any violation committed before the effective date of this Ordinance, as applicable. For this purpose, a violation is deemed to have been committed before the effective date of this Ordinance, as applicable, if any element of the offense was committed prior to the effective date of this Ordinance, as applicable.

Section 3. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for

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

Section 4. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on the sixtieth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this ___ day of _____, 2007.

Mayor of the City of Houston

Prepared by Legal Dept.  
MNA:asw 08/20/2007 Assistant City Attorney
Requested by Stephen L. Williams, Director, Health and Human Services Department
L.D. File No. _____

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

SUBJECT: Petition for the City's consent to the addition of 27.5811 acres of land to Harris County Municipal Utility District No. 367 (Key Map No. 329-H)	Category #	Page 1 of <u>1</u>	Agenda Item # 13
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FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 7-12-07	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE <i>Michael S. Marcotte</i> Michael S. Marcotte, P.E., DEE	Council District affected: "ETJ"
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For additional information contact: Jun Chang, P.E. <i>JK</i> Senior Assistant Director Phone: (713) 837-0433	Date and identification of prior authorizing Council action:
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RECOMMENDATION: (Summary)
The petition for the addition of 27.5811 acres of land to Harris County Municipal Utility District No. 367 be approved.

Amount of Funding: NONE REQUIRED	F & A Budget:
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SOURCE OF FUNDING: General Fund Grant Fund Enterprise Fund
 Other (Specify)

SPECIFIC EXPLANATION:

Harris County Municipal Utility District No. 367 has petitioned the City of Houston for consent to add 27.5811 acres of land, located in the city's extraterritorial jurisdiction, to the district.

The Utility District Review Committee has evaluated the application with respect to wastewater collection and treatment, potable water distribution, storm water conveyance, and other public services.

The district is located in the vicinity of Spring-Cypress, Boudreaux, Huffsmith-Kohrville and Stuebner-Airline. The district desires to add 27.5811 acres, thus yielding a total of 958.0148 acres. The district is served by the Harris County Municipal Utility District No. 383 Wastewater Treatment Facility. The other district served by this plant is Harris County Municipal Utility District No. 367. The nearest major drainage facility for Harris County Municipal Utility District No. 367 is Cypress Creek which flows into Spring Creek, then the San Jacinto River and finally into Lake Houston.

Potable water is provided by Harris County Municipal Utility District Nos. 367 and 383 Water Plant No. 1. By executing the Petition for Consent, the district has acknowledged that all plans for the construction of water conveyance, wastewater collection, and storm water collection systems within the district must be approved by the City of Houston prior to their construction.

The Utility District Review Committee recommends that the subject petition be approved.

Attachments

cc: Marty Stein Marlene Gafrick Jeff Taylor Dan Krueger Jack Sakolosky
Bill Zrioka Waynette Chan Deborah McAbee Gary Norman

F & A Director	REQUIRED AUTHORIZATION Other Authorization: <i>Andrew F. Icken</i> Andrew F. Icken Deputy Director Planning & Development Services Div.	20JZC308 Other Authorization:
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**PROPOSED H.C.M.U.D. NO. 367
DISTRICT BOUNDARY**
958.0148 AC.

**HARRIS CO. M.U.D. 367
ANNEXATION TRACT**
27.5811 AC.

STUEBNER - AIRLINE ROAD

BOUDREAUX ROAD

CRESCENT CLOVER DR.

BOUDREAUX ROAD

**HCMUD NO. 367
958.0148 ACRES
PART TWO**

**HCMUD NO. 367
958.0148 ACRES
PART ONE**

NORTHPOINTE

BLVD

CHAMPION FOREST DRIVE

**ANNEXATION
TRACT 4
27.5811
ACRES**

LACEY ROAD

BURLINGTON & ROCK ISLAND RAILROAD

GLENNLOCH FOREST DRIVE

**HCMUD NO. 367
958.0148 ACRES
PART ONE**

GLENNLOCH LAKES BLVD

SPRING - CYPRESS ROAD

HUFSMITH - KOHRVILLE

E-MAILED

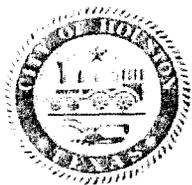
STATE HWY 249



Engineering and Surveying
9990 Richmond Avenue, Suite 450
North Building
Houston, Texas 77042
(713) 783-7788 (713) 783-3580, Fax

**VICINITY MAP OF
HARRIS COUNTY
MUNICIPAL UTILITY DISTRICT
NO. 367**

DRAWN BY: JBM	DATE: JUNE 6, 2007	SCALE: 1"=2000
CHECKED BY: ADS	JOB NO: 1995066-267	MUD367VICINITY DGN



CITY OF HOUSTON



Department of Public Works and Engineering
Water District Consent Application Form

12/22/2006 11:17 AM CE [Signature]

Application Accepted as Complete (to be completed by PW&E)

Application is hereby made for consent of the City of Houston to the creation/ addition of 27.5811 acres to Harris County MUD No. 367 under the provisions of Chapter 49 Texas Water Code.

David Oliver

Attorney for the District

Attorney: David Oliver, Allen Boone Humphries Robinson LLP

Address: 3200 Southwest Freeway, Suite 2600, Houston, TX Zip: 77027 Phone: 713-860-6465

Engineer: Costello, Inc.

Address: 9990 Richmond Ave., Suite 450, N Bldg., Houston, TX Zip: 77042 Phone: 713-783-7788

Owners: Dubose Land Finance Investors, GLF, L.P.

Address: c/o Jones Realty Consulting 2028 Buffalo Terrace, Houston, TX Zip: 77019 Phone: 713-524-4676

(If more than one owner, attach additional page. List all owners of property within the District)

LOCATION

INSIDE CITY OUTSIDE CITY NAME OF COUNTY (S) Harris
Survey Richard T. Blackburn Abstract 168

Geographic Location: List only major streets, bayous or creeks:

North of: Spring-Cypress East of: Huffsmith-Kohrville
South of: Boudreaux West of: Steubner-Airline

WATER DISTRICT DATA

Total Acreage of District: 930.4337 Existing Plus Proposed Land 958.0148 ✓

Development Breakdown (Percentage) for tract being considered for annexation:

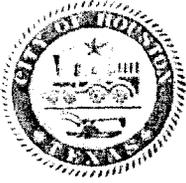
Single Family Residential 100% Multi-Family Residential 0%

Commercial 0% Industrial 0% Institutional 0%

Sewage generated by the District will be served by a : District Plant Regional Plant

Sewage Treatment Plant Name: HCMUD No. 383 Wastewater Treatment Facility

NPDES/TPDES Permit No: TX0115983 TCEQ Permit No: WQ0013875002



CITY OF HOUSTON



Department of Public Works and Engineering
Water District Consent Application Form

Existing Capacity (MGD): 0.98

Ultimate Capacity (MGD): 1.50

Size of treatment plant site: 217,800/5.00 square feet/acres.

If the treatment plant is to serve the District only, indicate the permitted capacity of the plant: N/A MGD.

If the treatment plant is to serve other Districts or properties (i.e. regional), please indicate total permitted capacity of the plant. List all Districts served, or to be served, within the plant and their allotted capacities

(If more than two Districts – attach additional page):

Total permitted capacity: 1.50

MGD of (Regional Plant).

Name of District: HCMUD No. 367

MGD Capacity Allocation 0.57

or property owner(s)

Name of District: HCMUD No. 383

MGD Capacity Allocation 0.93

Water Treatment Plant Name: HCMUD No. 367 & 383 Water Plant No. 1

Water Treatment Plant Address: 9425 Swanswea, Spring, TX 77379

Well Permit No: 125006

Existing Capacity:

Well(s): 1,100 GPM

Booster Pump(s): 4,250 GPM

Tank(s): Ground Storage 0.46 MG

Ultimate Capacity:

Well(s): 1,100 GPM

Booster Pump(s): 4,250 GPM

Tank(s): Ground Storage 0.46 MG

Size of Treatment Plant Site: 101,248/2.3252

square feet/acres.

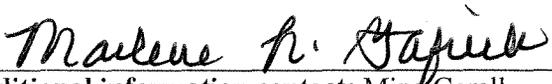
Comments or Additional Information: _____

R

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

SUBJECT: Ordinance designating the 600 block of Aurora Street, north and south sides and 700 block of Aurora Street north side between Oxford and North Main Streets as a Special Building Line Requirement Area	Category #	Page 1 of _____	Agenda Item # 14
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FROM (Department or other point of origin): Marlene L. Gafrick, Director Planning and Development Department	Origination Date 7/19/2007	Agenda Date SEP 05 2007
---	--------------------------------------	-----------------------------------

DIRECTOR'S SIGNATURE: <i>MS</i> 	Council District affected: H
--	--

For additional information contact: Mina Gerall Phone: 713.837.7858	Date and identification of prior authorizing Council action: N/A
---	---

RECOMMENDATION: (Summary) Approval of an ordinance designating the 600 block of Aurora Street north and south sides and 700 block of Aurora Street north side between Oxford and North Main Streets as a Special Building Line Requirement Area, pursuant to Chapter 42 of the Code of Ordinances, and establishing a 21'-0" prevailing building line.

Amount and Source of Funding:	F & A Budget:
--------------------------------------	--------------------------

SPECIFIC EXPLANATION: In accordance with Section 42-163 of the Code of Ordinances, the property owner of Lots 5 and 6, Block 49, of the Sunset Heights Subdivision initiated an application for the designation of a special building line requirement area. A subsequent amendment to Chapter 42 of the Code of Ordinances amended Section 42-163 relating to the establishment of special building line areas. This application was received and processed under the rules in effect at the time the application was filed and the Planning and Development Department recommends that prior Section 42-163 be applied for that purpose. The application includes written evidence of support from 17 of the 30 property owners (57%). Notification was mailed to 14 property owners indicating that the special building line requirement area application had been made. The notification further stated that written protest could be filed with the Planning and Development Department within fifteen days of mailing. Two written protests were filed. The Houston Planning Commission considered the application and protests at the April 12, 2007 meeting and voted to recommend that City Council establish the Prevailing Building Line Requirement Area.

It is recommended that the City Council adopt an ordinance establishing a 21'-0" Prevailing Building Line for the area.

MLG:md:db

Attachments: Planning Commission Approval, Prevailing Building Line Application & Petition, Evidence of Support, Map of the Area, Protest Letter

- xc: Marty Stein, Agenda Director
 Anna Russell, City Secretary
 Arturo G. Michel, City Attorney
 Deborah McAbee, Land Use Division, Legal Department
 Linda Tarver, Public Works and Engineering
 Gary Bridges, Public Works and Engineering

REQUIRED AUTHORIZATION

F & A Director:	Other Authorization:	Other Authorization:
----------------------------	-----------------------------	-----------------------------

Washington, Mira - PD

From: Sheila Crowson [REDACTED]
Sent: Thursday, March 01, 2007 10:26 AM
To: mira.washington@cityofhouston.net
Subject: Special Building Line Req - PROTEST

Ms. Washington,

I herein formally submit my PROTEST to changing the set-back building line on my property on Aurora Street in the Heights.

I am in receipt of your letter of February 15, 2007 regarding a Special Building Line Requirement Application for the 600 block of Aurora Street, north and south sides between Oxford St. and Gostic St.

Although, technically I am not in the 600 Block and not between Oxford and Gostic (My address is 701 Aurora and Gostic dead-ends just in front of one of my three lots), I have been included in this application.

I purchased these properties almost thirty years ago with a 10 foot building offset in place and I do not want that changed. I was never approached regarding this building line application and I do not want my building line changed by people who have become homeowners in this neighborhood in recent years.

There is an existing structure on my property at the 10 foot offset and I do not feel that anyone has the right to restrict what I can or cannot do with my property since I bought it all these many years ago expecting the existing building offset to stay in place.

Please enter my formal PROTEST in an effort to override this application and notify me if I need to submit any additional information to effect same.

Thank you for your consideration in this matter.

Please acknowledge that this PROTEST is formally entered into the records by way of reply to this email.

Regards,

Sheila Crowson

Enbridge DE Pipeline Project

2603 Augusta, Suite 570

Houston, Texas 77057

713-357-3929 (phone)

713-357-3920 (fax)

City of Houston
Planning and Development

Attn: Marlene Gafrick

Sent by fax 713-8377703

Sent by email to James Nimene: james.nimene@cityofhouston.net

Phone: 713-8377821

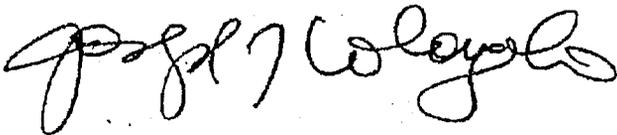
I wish to protest the special building line requirement and the minimum lot size application under sec 42-163 submitted by some owners. The deadline is March 2, 2007. Please acknowledge my timely protest to both petitions via email to [REDACTED] and fax 713-9737538.

I own a properties at 621 Aurora (under my name) and 608 Aurora with the 608 Aurora (property under NMBC Ltd or 608 Aurora Ltd, I think.)

I also request the names of the signers of the petition be given to me asap so that I may plan the response. Please give this request to Ms. Hargrove or whoever compiles the info for such a request and have them call me at 713-4121875 to discuss how I may pick up the info and when it will be ready.

Joseph J. Colangelo

Fax 713-9737538
[REDACTED]



▲
MAR 2007
RECEIVED

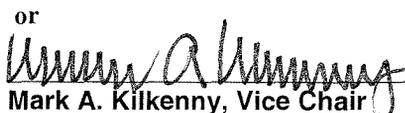
Special Building Line Requirement Area No. 110

Planning Commission Approval

Satisfies	Does Not Satisfy	Criteria
		The application satisfies each of the following criteria (1-5):
X		1. Boundaries include all property within at least one block face; The application is for the 600 block of Aurora Street, north and south sides and 700 block of Aurora Street north side between Oxford and North Main Streets.
X		2. More than 50% of the lots in the SBLRA are developed with SF residential units; 80% of the lots are developed with SF residential.
X		3. Demonstrated Sufficient Evidence of Support; Petition signed by 57% of the property owners and testimony provided at Planning Commission.
X		4. Establishment of the SBLRA will further the goal of preserving the prevailing building line character of the area; and, A (21'-0") Prevailing building line character exists.
X		5. Less than 25% of the SF residential properties have a constructed building line that varies by more than 5 feet from the most frequent constructed building line. 24 of the 30 lots contained within the proposed Special Building Line Requirement Area are developed with single-family residential units. 6 of the lots are vacant. 3 of the 13 SF residential properties deviate from the prevailing building line by more than five feet. Therefore, the prevailing constructed building line for this application is 21'-0".
X		Petition was signed by the owners of 51 percent or more of the lots or tracts within the SBLRA; and Owners of 57% of the lots or tracts signed petition.
	X	A timely protest was not filed 2 protests were filed.

The Special Building Line Requirement Area has a prevailing building line of twenty-one feet and zero-inches (21'- 0").

_____ Date _____
 Carol A. Lewis Ph.D., Chair

or
 _____ Date 5/11/07
 Mark A. Kilkenny, Vice Chair

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

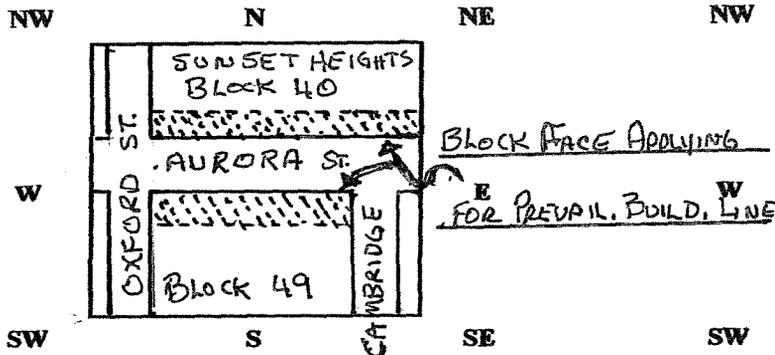
PLANNING & DEVELOPMENT DEPARTMENT

PREVAILING BUILDING LINE APPLICATION

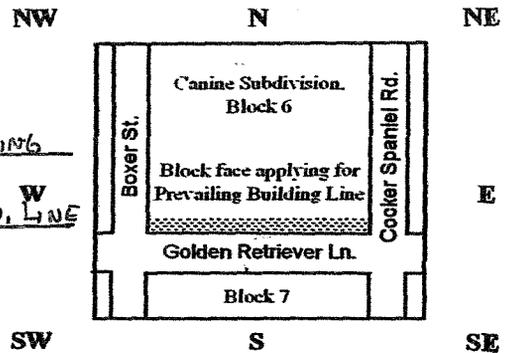
To expedite this application, please complete entire application form.

Staff will complete shaded items.

LOCATION



LOCATION EXAMPLE



1. BOUNDARY:

Block no.: 49 & 40
 Lot nos.: 1-12 & 29-46
 Subdivision name: SUNSET HEIGHTS
 St. name & side: AURORA SOUTH & NORTH
 Block Address: 600 BLOCK, AURORA ST.
 Odd/Even Addresses: EVEN & ODD

BOUNDARY EXAMPLE:

Block 6
 Lots 1-5
 Canine Subdivision
 North side of Golden Retriever Ln.
 800 Address Block Golden Retriever Ln.
 Odd Addresses

2. PROJECT INFO.:

File no.: 110
 Lambert: 5359 Census Tract: School Dist.:
 Key Map: 4535 Zip Code: 77008 City Council Dist.: H
 Co. Comm. Prct.:

3. CONTACTS:

Applicant: BOB L. GASPARD Phone: 713-868-4492 Fax: 713-868-4492
 Address: 606 AURORA State: TX Zip: 77008
 City: HOUSTON, TX
 Other: Phone: Fax:
 Address: State: Zip:
 City:

4. SUBMITTAL REQUIREMENTS

	PVL BL
Completed application form	<input type="checkbox"/>
Map or sketch showing the address and land use of all lots within boundary	<input type="checkbox"/>
Data showing the distance from the front property line to each building on the lot	<input type="checkbox"/>
Signed petition	<input type="checkbox"/>
Evidence of support from the property owners	<input type="checkbox"/>

PREVAILING BUILDING LINE

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

PETITION

1/24/07

DATE

I, BOB L. GASPARD, owner of property within the proposed boundaries of the special building line requirement area, specifically, Block 49 Lot 5,6 of SUNSET HEIGHTS, do hereby submit this petition as prescribed by the Code of Ordinances, City of Houston, Sec. 42-163. With this petition and other required information, I request to preserve the character of the existing blockface(s) for Block 40 Lot(s) 29-46, in SUNSET HEIGHTS, through the application of and creation of a special building line requirement area.

Bob L. Gaspard
BOB L. GASPARD
Petitioner

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

EVIDENCE OF SUPPORT

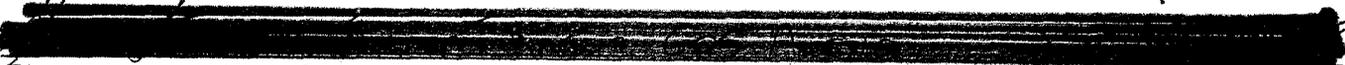
Listed below is evidence by the owners of property within the proposed boundaries of the special minimum lot size requirement area, or their authorized agent, who support the request to preserve the character of the existing lot sizes for Blocks ~~40~~ Lot(s) 29-46, in SUNSET HEIGHTS, through the application of and creation of a special lot size.

By signing this evidence of support, I hereby represent: (1) that I am the owner or the owner's authorized agent of the property with respect to which I have affixed my signature, and (2) I support the petition of Bob L. GASPARD to create a special minimum lot size requirement area for Block ~~40~~ Lots 29-46, in SUNSET HEIGHTS.

^{#1}
Michael Way Michael Way 613 Aurora 713 599-0700 (CO) ✓
Signature and Printed name Address Telephone

^{#2}
Kirk D. Hood Kirk D. Hood 617 Aurora (281) 414-7312 ✓
Signature and Printed name Address Telephone

^{#3}
Mark B. Bennett Mark B. Bennett 601 Aurora 713-895-2317 ✓
Signature and Printed name Address Telephone


Signature and Printed name Address Telephone

^{#4}
Debra Severson Debra Severson 609 Aurora 713-880-5561 ✓
Signature and Printed name Address Telephone

^{#5}
Connie Santos Connie Santos 625 Aurora 713-867-4609 ✓
Signature and Printed name Address Telephone

^{#6}
Sharon Orr Sharon Orr 605 Aurora 330 283 8050 ✓
Signature and Printed name Address Telephone

Signature and Printed name Address Telephone

Signature and Printed name Address Telephone

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

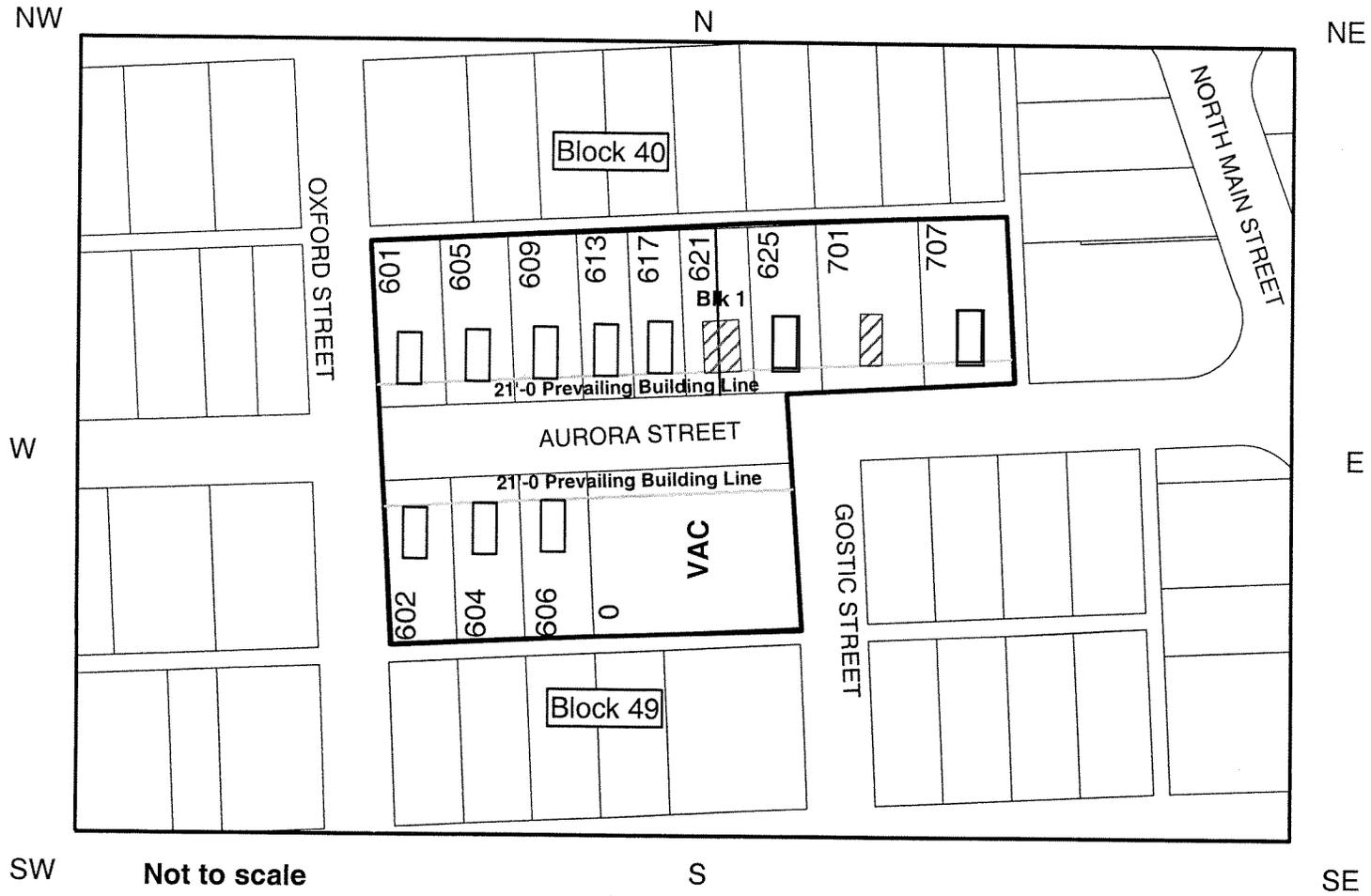
EVIDENCE OF SUPPORT

Listed below is evidence by the owners of property within the proposed boundaries of the special minimum lot size requirement area, or their authorized agent, who support the request to preserve the character of the existing lot sizes for Blocks 49 Lot(s) 1-12, in SUNSET HEIGHTS through the application of and creation of a special lot size.

By signing this evidence of support, I hereby represent: (1) that I am the owner or the owner's authorized agent of the property with respect to which I have affixed my signature, and (2) I support the petition of Bob L. GASPARD to create a special minimum lot size requirement area for Block 49 Lots 1-12, in SUNSET HEIGHTS,

<i>Carlos Bellin</i> Signature and Printed name	662 AURORA Address	713 869 2753 Telephone
<i>Alfred Del Bello</i> Signature and Printed name	604 AURORA Address	713 862 5955 Telephone
<i>Bob L. GASPARD</i> Signature and Printed name	606 AURORA, HO. TX 77008 Address	713 8229304 713 868 4492 Telephone
Signature and Printed name	Address	Telephone
Signature and Printed name	Address	Telephone
Signature and Printed name	Address	Telephone
Signature and Printed name	Address	Telephone
Signature and Printed name	Address	Telephone
Signature and Printed name	Address	Telephone
Signature and Printed name	Address	Telephone

SUNSET HEIGHTS AND AURORA STATION TOWNHOMES



Not to scale

Conceptual Map

SBLRA No. 110

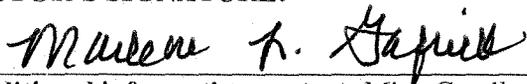
-  Single Family Structures that meet the 21' requirement
-  Single Family Structures located outside the 5' variation
- MF** Multi Family
- COM** Commercial
- VAC** Vacant

R

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

SUBJECT: Ordinance designating the 1200 block of Columbia Street, east and west sides, between East 12 th and East 13 th Streets as a Special Building Line Requirement Area	Category #	Page 1 of _____	Agenda Item # 15
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FROM (Department or other point of origin): Marlene L. Gafrick, Director Planning and Development Department	Origination Date 7/19/2007	Agenda Date SEP 05 2007
---	--------------------------------------	-----------------------------------

DIRECTOR'S SIGNATURE: 	Council District affected: H
---	--

For additional information contact: Mina Gerall Phone: 713.837.7858	Date and identification of prior authorizing Council action: N/A
---	---

RECOMMENDATION: (Summary) Approval of an ordinance designating the 1200 block of Columbia Street, east and west sides, between East 12th and East 13th Streets as a Special Building Line Requirement Area, pursuant to Chapter 42 of the Code of Ordinances, and establishing a 22'-0" prevailing building line.

Amount and Source of Funding:	F & A Budget:
--------------------------------------	--------------------------

SPECIFIC EXPLANATION: In accordance with Section 42-163 of the Code of Ordinances, the property owner of Lot 5, Block 190, of the Houston Heights Subdivision initiated an application for the designation of a special building line requirement area. A subsequent amendment to Chapter 42 of the Code of Ordinances amended Section 42-163 relating to the establishment of special building line areas. This application was received and processed under the rules in effect at the time the application was filed and the Planning and Development Department recommends that prior Section 42-163 be applied for that purpose. The application includes written evidence of support from 14 of the 22 property owners (64%). Notification was mailed to 22 property owners indicating that the special building line requirement area application had been made. The notification further stated that written protest could be filed with the Planning and Development Department within fifteen days of mailing. One written protest was filed. The Houston Planning Commission considered the application and protest at the March 29, 2007, meeting and voted to recommend the City Council establish the Prevailing Building Line Requirement Area.

It is recommended that the City Council adopt an ordinance establishing a 22'-0" Prevailing Building Line for the area.

MLG:md:db

Attachments: Planning Commission Approval, Prevailing Building Line Application & Petition, Evidence of Support, Map of the Area, Protest Letter

- xc: Marty Stein, Agenda Director
 Anna Russell, City Secretary
 Arturo G. Michel, City Attorney
 Deborah McAbee, Land Use Division, Legal Department
 Linda Tarver, Public Works and Engineering
 Gary Bridges, Public Works and Engineering

REQUIRED AUTHORIZATION

F & A Director:	Other Authorization:	Other Authorization:
----------------------------	-----------------------------	-----------------------------

Nimene, James - PD

From: Jay Cowar [nitewingjc@hotmail.com]
Sent: Tuesday, February 20, 2007 7:48 PM
To: james.nimene@cityofhouston.net
Subject: Protest of Special Building Line Requirement Application regarding 1246 Columbia

Mr. James Nimene
City of Houston
Planning and Development Dept.

Dear Mr. Nimene:

Pursuant to my telephone conversation with you this morning, I hereby PROTEST a Special Building Line Requirement Area which affects 1246 Columbia, in the Houston Heights, Houston, Texas 77008.

1246 Columbia is my homestead where I have lived for the past 12 years. The house on my property is not similar to any other house in the Houston Heights. It was constructed as a frame house on approximately a 12-inch pier and beam base. Then the house was covered with a false brick facade and surrounded with about a foot-high cement skirt, to resemble a concrete slab. All windows and doors are fortified with iron bars to prevent break-ins, because the house is directly across the street from Reagan High School. The windows are four feet high from the floor and cannot be opened.

Also, I have to stand on a step-stool to look out the window.

Because of the false brick facade and cement skirt around the house, there has been no successful way for termite prevention to be accomplished. Therefore, this house has been plagued by termites continually.

In 2005, I became disabled and could no longer work. Thus, in February 2006, I put my property up for sale, because my living expenses became more than I could afford. My property is much smaller than other properties around it, the house is not visually attractive, and the close proximity of the high school is a very big detriment in securing a buyer. The students constantly throw trash on the property, they stand around and bounce against my fence, bending and tearing it, and they race each other down the street in their cars with their radios turned up as loud as they will go. Additionally, HISD has had construction being done to the entire front property of Reagan High School for approximately a year, making the grounds and 13th Street muddy, unattractive, and unrepresentative of the neighborhood in general.

So, it stands to reason that every prospective Buyer, who viewed my property, looked at it with the intention of tearing down the house and building a new home that would be more attractive and more representative of the other homes in the neighborhood. If a Special Building Line Requirement is enforced, I am afraid I will not be able to sell my house and, because I am disabled, my personal finances will not be enough for me to survive on.

I believe the time for petitioning for a Special Building Line was perhaps 10 years ago, BEFORE the large West Coast 2-story houses became so prevalent. Now is entirely too late -- we cannot wave a wand and turn back the clock. In my particular case, it would be entirely unfair not to be allowed to utilize more of the existing property at 1246 Columbia to build a larger, more attractive home that would be representative of the neighborhood in general. Also, building a larger home would be good for the tax base economy of the city.

Sincerely,

S.C. Hyde

Mailing Address: P.O. Box 70189
Houston, TX 77270-0189

Don't miss your chance to WIN 10 hours of private jet travel from Microsoft® Office Live

Special Building Line Requirement Area No. 108

Planning Commission Approval

Satisfies	Does Not Satisfy	Criteria
		The application satisfies each of the following criteria (1-5):
X		1. Boundaries include all property within at least one block face; <i>The application is for the 1200 blocks of Columbia Street, east and west sides, between E. 12th and E. 13th Streets.</i>
X		2. More than 50% of the lots in the SBLRA are developed with SF residential units; <i>91% of the lots are developed with SF residential.</i>
X		3. Demonstrated Sufficient Evidence of Support; <i>Petition signed by 64% of the property owners and testimony provided at Planning Commission.</i>
X		4. Establishment of the SBLRA will further the goal of preserving the prevailing building line character of the area; and, <i>Prevailing building line character exists.</i>
X		5. Less than 25% of the SF residential properties have a constructed building line that varies by more than 5 feet from the most frequent constructed building line. <i>20 of the 22 lots contained within the proposed Special Building Line Requirement Area are developed with single-family residential units. 1 lot is vacant. 1 lot is multi-family. 4 of the 20 SF residential units deviate from the prevailing building line by more than five feet (20%). Therefore, the prevailing constructed building line for this application is 22'-0."</i>
X		Petition was signed by the owners of 51 percent or more of the lots or tracts within the SBLRA; and <i>Owners of 64% of the lots or tracts signed petition.</i>
	X	A timely protest was not filed <i>1 protest was filed.</i>

The Special Building Line Requirement Area has a prevailing building line of twenty-two feet and zero-inches (22'- 0").

Carol A. Lewis Date 4/22/07
 Carol A. Lewis Ph.D., Chair

or

_____ Date _____
 Mark A. Kilkenny, Vice-Chair

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

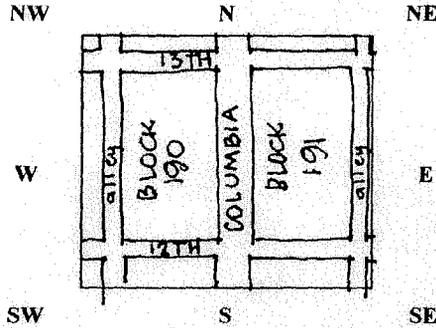
PREVAILING BUILDING LINE APPLICATION

To expedite this application, please complete entire application form.

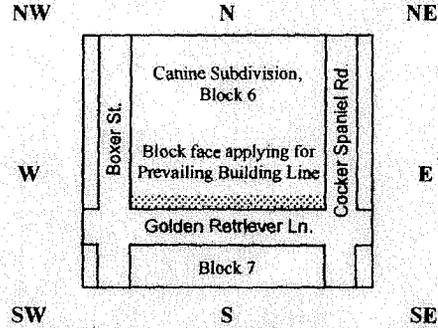
Staff will complete shaded items.

RECEIVED
DEC 19 2007
BY: *James [unclear]*

LOCATION



LOCATION EXAMPLE



1. BOUNDARY:

Block no.: 190 - 191
 Lot nos.: 2-12A & TR2A - 13/14
 Subdivision name: HOUSTON HEIGHTS
 St. name & side: COLUMBIA EAST & WEST
 Block Address: 1200 COLUMBIA
 Odd/Even Addresses: odd & even

BOUNDARY EXAMPLE:

Block 6
 Lots 1-5
 Canine Subdivision
 North side of Golden Retriever Ln.
 800 Address Block Golden Retriever Ln.
 Odd Addresses

2. PROJECT INFO.:

File no.: 108 School Dist.: H150
 Lambert: 5358 Census Tract: 5113 City Council Dist.: H
 Key Map: 453W Zip Code: 77008 Co. Comm. Prct.: I

3. CONTACTS:

Applicant: Robert C. Spoh
 Address: 1229 Columbia Phone: 713 864 1353 Fax: 713 663 7007
 City: Houston TX 77008 State: TX Zip: 77008

Other:
 Address: _____ Phone: _____ Fax: _____
 City: _____ State: _____ Zip: _____

4. SUBMITTAL REQUIREMENTS

	PVL BL
Completed application form	<input checked="" type="checkbox"/>
Map or sketch showing the address and land use of all lots within boundary	<input checked="" type="checkbox"/>
Data showing the distance from the front property line to each building on the lot	<input checked="" type="checkbox"/>
Signed petition	<input checked="" type="checkbox"/>
Evidence of support from the property owners	<input checked="" type="checkbox"/>

PREVAILING BUILDING LINE

CITY OF HOUSTON

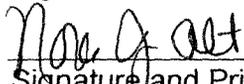
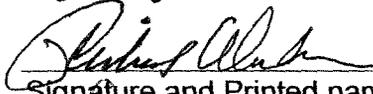
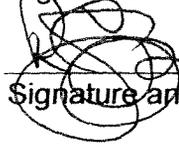
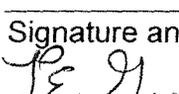
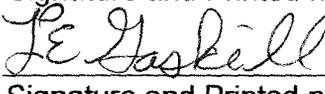
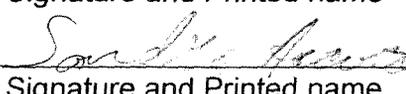
HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

EVIDENCE OF SUPPORT

Listed below is evidence by the owners of property within the proposed boundaries of the special building line requirement area, or their authorized agent, who support the request to preserve the character of the existing blockface(s) for Blocks 190 lots 1 through 11A (subdivision) through the application of and creation of a special building line.

By signing this evidence of support, I hereby represent: (1) that I am the owner or the owner's authorized agent of the property with respect to which I have affixed my signature, and (2) I support the petition of Robert C. Spott to create a special building line requirement area for Block (190) in Houston Heights

Signature and Printed name	Address	Telephone
 Nora J. Ait	1247 Columbia Apt Nora J 1243 Columbia	713 802 2586 ✓
 Abraham Richard	1235 Columbia	713 880 5170 ✓
 Sullivan Mathew	1231 Columbia	713 861 8655 ✓
 Spott Robert	1229 Columbia	713 864 1353 ✓ <i>applicant</i>
 Herms Marshall	1225 Columbia	
 Gaskill Lorenzo	1221 Columbia	713 862 4069 ✓
 Acosta Sandra	1217 Columbia	
-	vacant 1215 Columbia	
-	Mickel Cecil 1209 Columbia	
-	Heights Plus LTD 1201 Columbia	
-	415 E. 12TH	

prevail

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

EVIDENCE OF SUPPORT

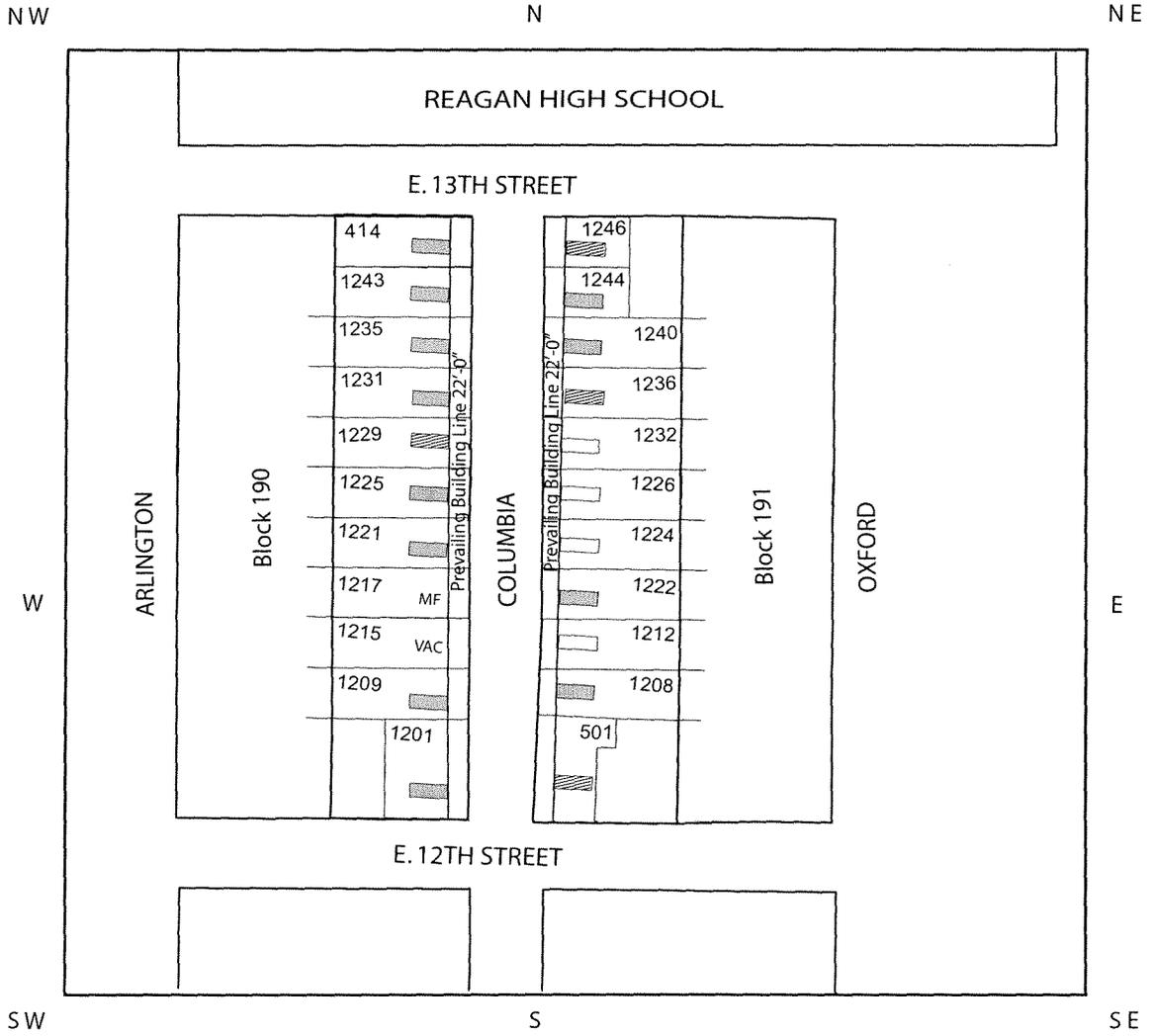
Listed below is evidence by the owners of property within the proposed boundaries of the special building line requirement area, or their authorized agent, who support the request to preserve the character of the existing blockface(s) for Blocks 191 W/S TR 24 Through 14 (subdivision) through the application of and creation of a special building line.

By signing this evidence of support, I hereby represent: (1) that I am the owner or the owner's authorized agent of the property with respect to which I have affixed my signature, and (2) I support the petition of Robert C. Spott to create a special building line requirement area for Block (191) in Houston Heights

Signature and Printed name	Address	Telephone
<i>[Signature]</i> Louve Jeffrey	1246 Columbia 1244 Columbia	
<i>[Signature]</i> Ken Yankowsky	1240 Columbia	832/860-8919 *
<i>[Signature]</i> Peter George	1236 Columbia	
<i>[Signature]</i> Robbins Glynda	1232 Columbia	713-862-5999 ✓
<i>[Signature]</i> Robbins Glynda	1226 Columbia	713 862 5999 ✓
<i>[Signature]</i> Powell Kathleen	1224 Columbia	713-862-5355 ✓
<i>[Signature]</i> Johnson Cheryl	1222 Columbia	713-302-1851 ✓
<i>[Signature]</i> Partners in Bldg	1208 Columbia	713.868.2861 ✓
<i>[Signature]</i> Leigh Wheatley	501 E 12th St	713.869.3676
<i>[Signature]</i> Karen Lozano	1212 Columbia	713 203 0787
<i>[Signature]</i> Karen Lozano	523 E 12th St	(713) 863 8030
<i>[Signature]</i>	512 E 12th St ?	

prevail

SBLRA # 108 COLUMBIA STREET
Proposed Special Line Requirement Area



Not to scale

Conceptual Map

-  Single Family structures at 22' Prevailing Building Line
-  Single Family structures located within the 5' variation
-  Single Family structures located outside the 5' variation
- MF Multi Family
- COM Commercial
- VAC Vacant

R

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

SUBJECT: Ordinance designating the 1900 blocks of West Lamar Street, north and south sides, between Stanford and Taft Streets as a Special Building Line Requirement Area	Category #	Page 1 of ____	Agenda Item # 16
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FROM (Department or other point of origin): Marlene L. Gafrick, Director Planning and Development Department	Origination Date 7/19/2007	Agenda Date SEP 05 2007
---	--------------------------------------	-----------------------------------

DIRECTOR'S SIGNATURE: 	Council District affected: D
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For additional information contact: Mina Gerall Phone: 713.837.7858	Date and identification of prior authorizing Council action: N/A
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RECOMMENDATION: (Summary) Approval of an ordinance designating the 1900 blocks of West Lamar Drive, north and south sides, between Stanford Street and Taft Street as a Special Building Line Requirement Area, pursuant to Chapter 42 of the Code of Ordinances, and establishing a 23'-0" prevailing building line.

Amount and Source of Funding:	F & A Budget:
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SPECIFIC EXPLANATION: In accordance with Section 42-163 of the Code of Ordinances, the property owner of Lot 15, Block 5, of the Temple Terrace Subdivision initiated an application for the designation of a special building line requirement area. A subsequent amendment to Chapter 42 of the Code of Ordinances amended Section 42-163 relating to the establishment of special building line areas. This application was received and processed under the rules in effect at the time the application was filed and the Planning and Development Department recommends that prior Section 42-163 be applied for that purpose. The application includes written evidence of support from 21 of the 35 property owners (60%). Notification was mailed to 35 property owners indicating that the special building line requirement area application had been made. The notification further stated that written protest could be filed with the Planning and Development Department within fifteen days of mailing. Two written protests were filed. The Houston Planning Commission considered the application and protest at the March 29, 2007, meeting and voted to recommend the City Council establish the Prevailing Building Line Requirement Area.

It is recommended that the City Council adopt an ordinance establishing a 23'-0" Prevailing Building Line for the area.

MLG:md:db

Attachments: Planning Commission Approval, Prevailing Building Line Application & Petition, Evidence of Support, Map of the Area, Protest Letter

- xc: Marty Stein, Agenda Director
 Anna Russell, City Secretary
 Arturo G. Michel, City Attorney
 Deborah McAbee, Land Use Division, Legal Department
 Linda Tarver, Public Works and Engineering
 Gary Bridges, Public Works and Engineering

REQUIRED AUTHORIZATION

F & A Director:	Other Authorization:	Other Authorization:
----------------------------	-----------------------------	-----------------------------

Joe C. Holzer
600 Travis, Suite 4200
Houston, Texas 77002
Telephone: 713-220-4172
Facsimile: 713-238-7278
Email: jholzer@andrewskurth.com

February 19, 2007

Ms. Tai-An Miao
City of Houston
Planning & Development Department
P.O. Box 1562
Houston, Texas 77251-1562

Subject: Special Building Line Requirement Application
1900 Block of West Lamar Street, north and south sides,
between Stanford Street and Taft Street

Dear Ms. Miao:

I own property located at 1971 and 1972 West Lamar, Houston, Texas. This letter is to protest the application for the creation of a Special Building Line Requirement under Section 42-163 of the Code of Ordinances and to request a hearing before the Houston Planning Commission. Please notify me at the above address of the hearing date and time.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,


Joe C. Holzer

City of Houston, Planning & Development Dept.
P.O. Box 1562
Houston, TX 77251-1562

To Whom It May Concern:

SUBJECT: MINIMUM LOT SIZE REQUIREMENT APPLICATION, SPECIAL BUILDING LINE
REQUIREMENT APPLICATION: 1900 BLOCK W. LAMAR ST.

As property owners in the 1900 block of West Lamar, we would like to file a formal protest to both the proposed Minimum Lot Size Requirement Application and to the Special Building Line Requirement Application. Please notify us of the scheduled hearing with the Houston planning commission.

Sincerely,

Derek Neves
co-owner, 1933 W. Lamar

6218 Cindy Lane
Houston, TX 77098

Joseph Elder
co-owner, 1933 W. Lamar

2319 Steel Street
Houston, TX 77098

cc: tai.miao@cityofhouston.net
jason.holoubek@cityofhouston.net

FEBRUARY 19, 2007

Special Building Line Requirement Area No. 109

Planning Commission Approval

Satisfies	Does Not Satisfy	Criteria
		The application satisfies each of the following criteria (1-5):
X		1. Boundaries include all property within at least one block face; <i>The application is for the 1900 block of West Lamar Street, north and south sides, between Stanford and Taft Streets.</i>
X		2. More than 50% of the lots in the SBLRA are developed with SF residential units; <i>77% of the lots are developed with SF residential.</i>
X		3. Demonstrated Sufficient Evidence of Support; <i>Petition signed by 60% of the property owners and testimony provided at Planning Commission.</i>
X		4. Establishment of the SBLRA will further the goal of preserving the prevailing building line character of the area; and, <i>Prevailing building line character exists.</i>
X		5. Less than 25% of the SF residential properties have a constructed building line that varies by more than 5 feet from the most frequent constructed building line. <i>27 of the 35 lots contained within the proposed Special Building Line Requirement Area are developed with single-family residential units. 1 lot is vacant. 7 lots are multi-family. 2 of the 27 SF residential units deviate from the prevailing building line by more than five feet (7%). Therefore, the prevailing constructed building line for this application is 23'-0."</i>
X		Petition was signed by the owners of 51 percent or more of the lots or tracts within the SBLRA; and <i>Owners of 60% of the lots or tracts signed petition.</i>
	X	A timely protest was not filed <i>2 protests were filed.</i>

The Special Building Line Requirement Area has a prevailing building line of twenty-three feet and zero-inches (23'- 0").

Carol Abel Lewis Date 4/5/07
 Carol A. Lewis Ph.D., Chair

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

PREVAILING BUILDING LINE APPLICATION

To expedite this application, please complete entire application form.

Staff will complete shaded items.

COMPLETED

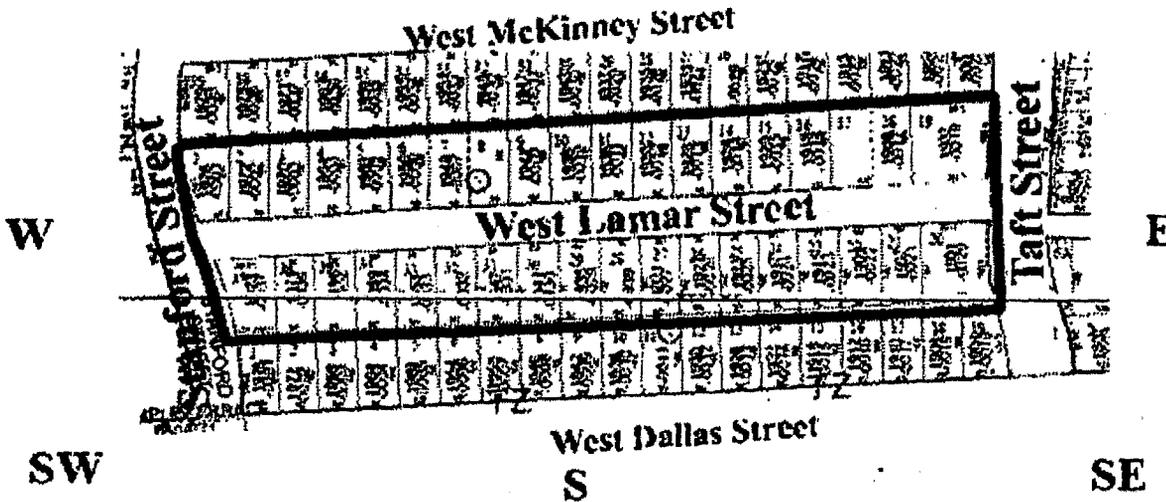
2-2-2007

NW

N

NE

REFERENCE:
HCAD Facet
Maps 5357-B9
and 5357-D1



1. BOUNDARY:

Block no.: Blocks 4 & 5

Lot nos.: Block 4: Lots 1-19 & Block 5: Lots 20-37

Subdivision name: Temple Terrace Subdivision

St. name & side: North and South side of West Lamar Street, east of Stanford St and west of Taft Street

Block Address: 1900 Address Block of West Lamar Street.

Odd/Even Addresses: Odd Addresses on South Side of West Lamar, Even Addresses on North Side of West Lamar

2. PROJECT INFO.:	File no.:				
	Lambert:		Census Tract:		School Dist.: HISD - Dist 1
	Key Map:	493J	Zip Code:	77019	City Council Dist.: 61
					Co. Comm. Prct.: 40

3. CONTACTS:

Applicant: Allen W. Ueckert
Address: 1920 W Lamar Street
City: Houston

Phone: 713-522-1776
State: TX **Zip:** 77019

Fax:

Other: Julie Wilsford Mullaly
Address: 1928 West Lamar Street
City: Houston

Phone: 713-817-4875
State: TX **Zip:** 77019

Fax:

CITY OF HOUSTON

HOUSTON PLANNING COMMISSION

PLANNING & DEVELOPMENT DEPARTMENT

PETITION

Sunday, November 19, 2006

I, Allen W. Ueckert, owner of property within the proposed boundaries of the special building line requirement area, specifically, Block (5), Lot (15), of Temple Terrace Subvission, do hereby submit this petition as prescribed by the Code of Ordinances, City of Houston, Sec. 42-163. With this petition and other required information, I request to preserve the character of the existing blockface(s) for Block 5, Lots 1-19 and Block 4, Lots 20-37 in the Temple Terrace Subdivision through the application of and creation of a special building line requirement area.



Allen W. Ueckert
Petitioner

REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance authorizing an Option Agreement between EarthLink, Inc. and the City of Houston related to the Wireless Broadband Network License and Service Agreements	Category	Page	Agenda Item # <i>17</i>
FROM (Department or other point of origin): Information Technology Department	Origination Date: August 31, 2007		Agenda Date: SEP 05 2007
DIRECTOR'S SIGNATURE: <i>Richard Lewis</i> Richard Lewis, Chief Information Officer	Council District affected: ALL		
For additional information contact: Lisa Hargrove 713-247-1753	Date and identification of prior authorizing Council action: April 11, 2007 Ordinance #07-0465		

RECOMMENDATION:

Approve the Option Agreement related to Wireless Broadband License and Service Agreement

Amount and source of funding: No Funding Required	F&A Budget:
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EXPLANATION:

The City and EarthLink have entered into a Settlement Agreement in which the City releases EarthLink from its obligation to meet certain scheduling milestones in its build-out of a city-wide wireless network, in exchange for payment to the City in the amount of \$5,000,000. The Administration intends to use the \$5 million to continue the Houston Digital Inclusion Initiative as well as efforts to reduce city operating expenses related to broadband access to City facilities and to mobile field workers. The funds will be deposited in the Digital Houston Fund.

The Administration recommends that Council approve an Option Agreement that would provide EarthLink a period of nine months to consider alternative project financing strategies for implementation of a wireless network. In consideration for the option, EarthLink will not, during the option period, enter into a new contract with any other municipality to build a wireless broadband network or to provide Wi-Fi service that is financed by EarthLink, using its own balance sheet, unless the City approves in advance the financed amounts. During the nine-month option period the City may enter into a wireless network license and service agreement with another provider, provided that EarthLink is given thirty-day notice.

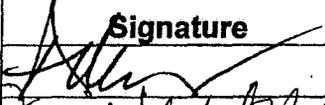
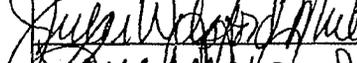
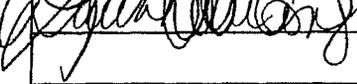
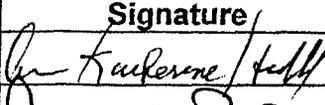
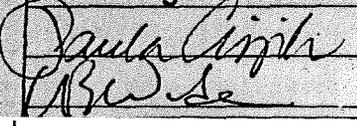
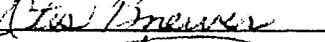
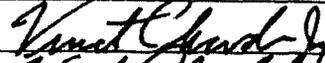
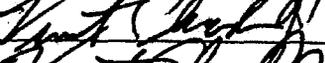
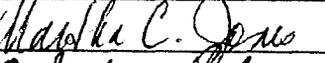
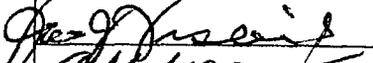
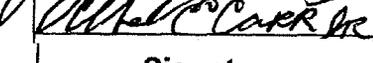
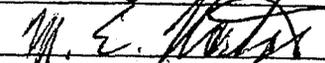
REQUIRED AUTHORIZATION

F&A Director:	Other Authorization:	Other Authorization:
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EVIDENCE OF SUPPORT

Listed below is evidence by the owners of property within the proposed boundaries of the special building line requirement area, or their authorized agent, who support the request to preserve the character of the existing block faces for Blocks 4, Lots 20-37 and Block 5, Lots 1-19 in (Temple Terrace Subdivision) through the application of and creation of a special building line.

By signing this evidence of support, I hereby represent: (1) that I am the owner or the owner's authorized agent of the property with respect to which I have affixed my signature, and (2) I support the petition of Allen W. Ueckert to create a special building line requirement area for Block 5, Lots 1 through 19 and Block 4, Lots 20 through 37 in Temple Terrace Subdivision.

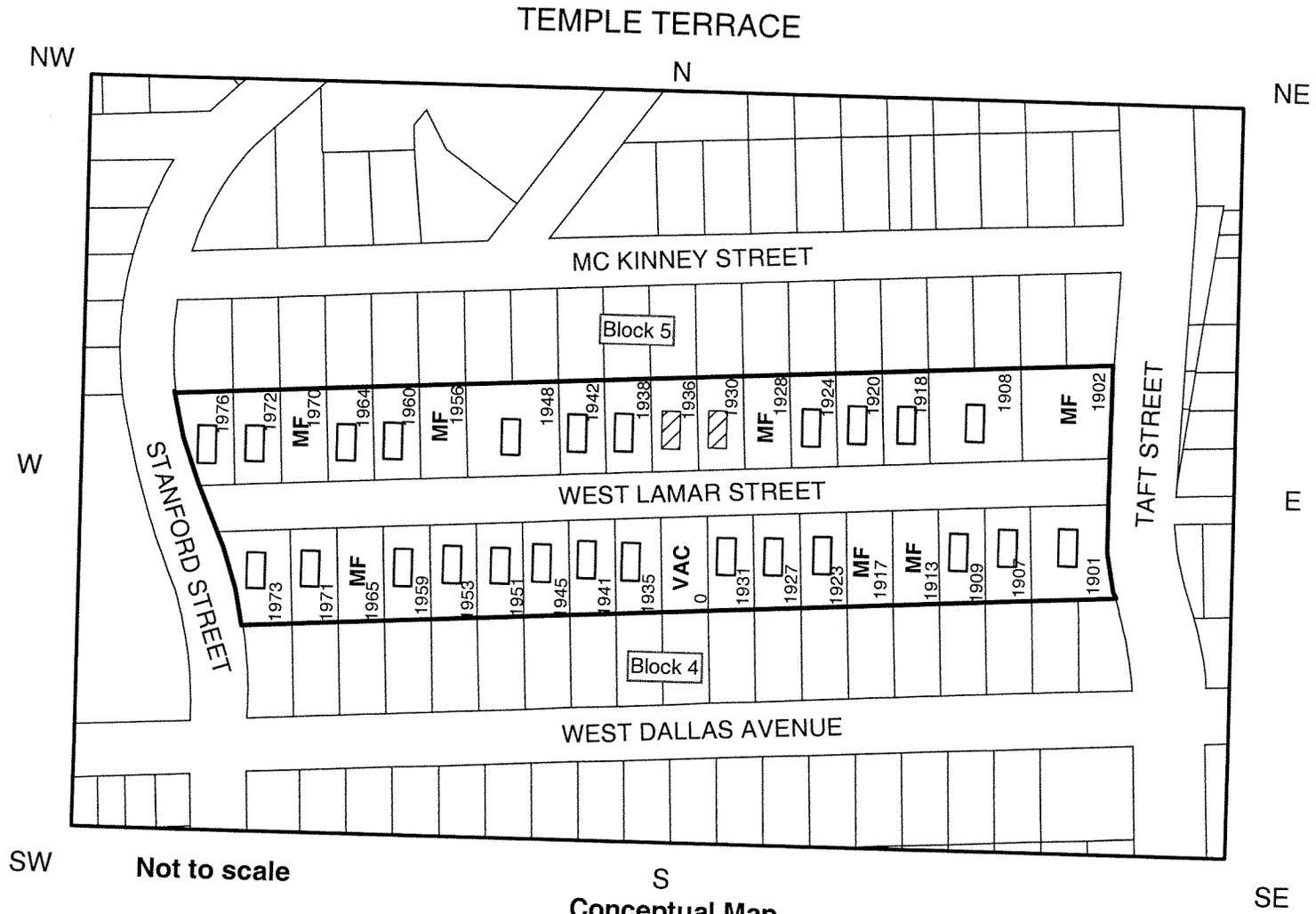
	Allen Ueckert	1920 W. Lamar	713-522-1716
	Julie Wiksford Mullenally	1928 W. Lamar	713-520-6453
	Laura DeVries-Conely	1923 W. Lamar	713-522-8328
	Anna Katherine Hildgard	1942 W. Lamar	713-320-1130
	Annise D. Parker	Lot 9	713-520-7702
	PAULA CIZIK	1935 W. Lamar	713-630-6565
	W. B. WADE	1935 W. LAMAR	✓ ✓ ✓
	Otis Brewer	1976 W Lamar	713-522-5823
	IAN CAIN	1973 W LAMAR	713 529 1973
	Vincent Chiodo, Jr.	1908 W Lamar (Lot 17)	713-857-5444
	Vincent Chiodo, Jr.	1908 W Lamar (Lot 18)	
	Vincent Chiodo, Jr., Independent Executor Estate of Theresa Chiodo	1918 W Lamar (Lot 16)	
	Martha C. Jones	1960 W. Lamar	713-529-1341
	ROBERT W BAKER	1941 W. LAMAR	713-526-0260
	JOE J. FISHER JR	1902 W. LAMAR	713 528 5360
	ALBERT E. CARR JR	1902 W LAMAR	713 528 5360
	M. E. NORTON	1959 W. LAMAR	713-522-1212

EVIDENCE OF SUPPORT

Listed below is evidence by the owners of property within the proposed boundaries of the special building line requirement area, or their authorized agent, who support the request to preserve the character of the existing block faces for Blocks 4, Lots 20-37 and Block 5, Lots 1-19 in (Temple Terrace Subdivision) through the application of and creation of a special building line.

By signing this evidence of support, I hereby represent: (1) that I am the owner or the owner's authorized agent of the property with respect to which I have affixed my signature, and (2) I support the petition of Allen W. Ueckert to create a special building line requirement area for Block 5, Lots 1 through 19 and Block 4, Lots 20 through 37 in Temple Terrace Subdivision.

Signature	Printed name	Address	Telephone
<i>Stewart Schneider</i>	Stewart Schneider	1927 W. Lamar	713-545-8725
<i>Thomas Fitzhugh</i>	Thomas Fitzhugh	1927 W. Lamar	713-882-5978
Signature	Printed name	Address	Telephone
<i>Rosalie Elizondo</i>	ROSALIE ELIZONDO	1948 W. Lamar (Lot 7)	713-522-2468
<i>Rosalie Elizondo</i>	ROSALIE ELIZONDO	1948 W. Lamar (Lot 8)	713-522-2468
Signature	Printed name	Address	Telephone
<i>Genina Gemino</i>	Genina Gemino	1932 W. Lamar (1938 W. Lamar)	713-862-1324
Signature	Printed name	Address	Telephone
<i>Kim A. Townsend</i>	Kim A. Townsend	1953 W. Lamar, Houston, Tx.	(713) 526-6560
Signature	Printed name	Address	Telephone
<i>Victoria Pizzitola</i>	Victoria Pizzitola	1907 W Lamar	
<i>Victoria Pizzitola</i>	Victoria Pizzitola	1909 W. Lamar	
Signature	Printed name	Address	Telephone
<i>Gil Barlas</i>	Gil Barlas	1970 W. Lamar	713-520-0407
Signature	Printed name	Address	Telephone
<i>Karen Schescke</i>	Karen Schescke	1945 W. Lamar Houston Tx 77019	713-942-7655



Not to scale

Conceptual Map

SBLRA No. 109

-  Single Family Structures that meet the 23' requirement
-  Single Family Structures located outside the 5' variation
- MF** Multi Family
- COM** Commercial
- VAC** Vacant

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Property Acquisition – George Bush Intercontinental Airport/Houston (IAH) Project 999 WBS# A-000421-0002-2-01	Category #	Page 1 of 2	Agenda Item # 18
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FROM (Department or other point of origin): Houston Airport System	Origination Date August 3, 2007	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: <i>Rae</i>	Council District affected: B
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For additional information contact: Janet L. Schafer <i>[Signature]</i> Phone: 281.233.1796 James Valenta 281.233.1828	Date and identification of prior authorizing Council action: N/A
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AMOUNT & SOURCE OF FUNDING: CIP A-0421.13.1 \$2,278,000.00 Airports Improvement Fund (8011) <i>(CO)</i>	Prior appropriations:
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RECOMMENDATION: (Summary)
Approve an ordinance appropriating \$2,278,000.00 from the Airports Improvement Fund and approving and authorizing a Purchase and Sale Agreement to acquire a certain tract of land, including all improvements thereon, adjacent to George Bush Intercontinental Airport/Houston.

SPECIFIC EXPLANATION:

The George Bush Intercontinental Airport (IAH) 2005 Master Plan recommends future expansion at the southeast corner of IAH as demands on air transportation increase. Recommended expansion plans include a possible east/west runway along the south portion of IAH in conjunction with associated taxi ways and airfield support facilities.

To accommodate these future airport improvements and to control future non-compatible residential land use from encroaching upon the airport, the Houston Airport System (HAS) requests the appropriation of requested funds and the approval of a Purchase and Sale Agreement with Donald E. Fisher, Jr., Trustee (Seller) for the acquisition of a tract of land containing approximately 63.948 acres located at the northeast corner of Greens Road and Lee Road (Key Map 374 R & M). The acquisition of this land is included in HAS's Capital Improvement Program.

The negotiated purchase price agreed to by the Seller is based on the value for the land as determined by professional appraisers under contract with the City. Upon the effective date, which takes effect on the date of the Controller's countersignature, the City has a 25-day inspection period in which it has the right to terminate the Agreement.

REQUIRED AUTHORIZATION		
F&A Budget: <i>[Signature]</i>	Other Authorization:	Other Authorization:

Date August 3, 2007	Subject: Property Acquisition – George Bush Intercontinental Airport/Houston (IAH) Project 999 WBS# A-000421-0002-2-01	Originator's Initials	Page 2 of 2
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HAS requests approval of a Purchase and Sale Agreement for the property acquisition described below:

Owner	Property Description	Purchase Price
Donald E. Fisher, Jr. Trustee	63.948 acres of land, more or less, out of the A.R. Bodman Survey, A-141 5855 Greens Road (unimproved)	\$2,258,000.00
	Estimated Title Insurance and Closing Costs (not to exceed)	\$20,000.00
	Requested Appropriation	\$2,278,000.00

HAS further requests the appropriation of \$2,278,000.00 from the Airports Improvement Fund for the above property acquisition, inclusive of the payment of title insurance premium and other miscellaneous closing costs. This land acquisition may be eligible for federal funding through the FAA's AIP Program. Appropriate fund source adjustments will be made in the future if AIP funding becomes available.

The Legal Department prepared the Purchase and Sale Agreement and has reviewed documentation related to the acquisition.

RMV:JDM:JAV

- cc: Ms. Marty Stein
 Mr. Anthony W. Hall, Jr.
 Mr. Arturo Michel
 Mr. Richard M. Vacar, A.A.E.
 Ms. Sara Culbreth
 Mr. David Arthur
 Ms. Janet Schafer
 Mr. Carlos Ortiz
 Ms. Kathy Elek
 Mr. Robert Johnson
 Mr. James Valenta

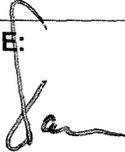
Attachments

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Professional Architectural/Engineering Services Agreement with AAC Designers Builders, Inc. dba Austin AECOM for Job Order Contracting (JOC) Support at George Bush Intercontinental Airport/Houston, William P. Hobby Airport and Ellington Field; Project No. 516C; WBS # A-000138-0018-3-01.	Category # 9	Page 1 of 2	Agenda Item # 19
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FROM (Department or other point of origin): Houston Airport System	Origination Date July 31, 2007	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: 	Council District affected: B, E & I
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For additional information contact: Eric R. Potts  Phone: 281-233-1999 John S. Kahl  Phone: 281-233-1941	Date and identification of prior authorizing Council action: None
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AMOUNT & SOURCE OF FUNDING: CIP No. A-0138.48.2 \$933,375.00 Airports Improvement Fund (8011) CIP No. A-0422.63.2 \$ 16,334.06 Airports Improvement Fund (8011) Total.....\$949,709.06 	Prior appropriations: None
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RECOMMENDATION: (Summary)
Enact an ordinance to approve a Professional Architectural/Engineering Services Agreement with AAC Designers Builders, Inc. dba Austin AECOM and appropriate the necessary funds to finance the cost of these services.

SPECIFIC EXPLANATION:

An Architectural/Engineering (A/E) has been selected to provide A/E Services required to support the Job Order Contracting (JOC) Program. The selection process consisted of a random selection of four (4) qualified firms from the City's Pre-qualified List. All four (4) firms, (ArcTec Associates, Inc., MLB & Associates, Molina Walker Architects, and AAC Designers Builders, Inc. dba Austin AECOM), were interviewed by a committee composed of Houston Airport System management. The committee concluded that Austin AECOM was best suited to provide these services.

A Professional Architectural/Engineering Services Agreement has now been prepared with Austin AECOM for JOC Support at George Bush Intercontinental Airport/Houston, William P. Hobby Airport and Ellington Field. These services will provide minor construction, repair and rehabilitation of projects that may be required at all three airports.

The services to be performed by Austin AECOM include:

1. Preparation of detailed scope statements, plans, specifications and cost estimating;
2. Periodic construction site observations, participation in construction progress meetings, response to contractors' request for information, review and approval of submittals, and written reports.

Basic Services fees are \$933,375.00. This project is an "Eligible Project" for the Civic Art Program under Ordinance No. 99-1351, and a Civic Art appropriation of \$16,334.06 (1.75% of Basic Services) is therefore being made. This contract will remain in effect until work on all projects to be assigned under this contract is completed, or until all available funds are exhausted.

REQUIRED AUTHORIZATION		
F&A Budget: 	Other Authorization:	Other Authorization: 

Date July 31, 2007	Subject: Professional Architectural/Engineering Services Agreement with AAC Designers Builders, Inc. dba Austin AECOM for Job Order Contracting (JOC) Support at George Bush Intercontinental Airport/Houston, William P. Hobby Airport and Ellington Field; Project No. 516C; WBS # A-000138-0018-3-01.	Originator's Initials LS	Page 2 of 2
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M/WBE PARTICIPATION:

The Office of Affirmative Action and Contract Compliance has established a 24% M/WBE goal for this project. Due to the on-call nature of the work to be performed under this contract, the M/WBE firms will be identified as the scope of the projects evolves.

RMV: ERP: JSK: LS: JDW

Attachments

cc: Ms. Marty Stein
Mr. Anthony W. Hall, Jr.
Mr. Arturo G. Michel
Ms. Velma Laws
Mr. Richard M. Vacar
Ms. Sara S. Culbreth
Mr. Dave Arthur
Ms. Ellen Erenbaum
Mr. Eric R. Potts
Mr. John S. Kahl
Mr. Frank D. Crouch
Mr. Adil Godiwalla
Mr. Carlos Ortiz
Ms. Kathy Elek
Mr. Dara Umrigar
Ms. Janice D. Woods
Mr. Richard Fernandez
Mr. J. Goodwille Pierre

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Lease Agreements – Manning Family Partnership, LP – William P. Hobby Airport (HOU)	Category #	Page 1 of 2	Agenda Item # 20
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FROM (Department or other point of origin): Houston Airport System	Origination Date August 16, 2007	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: <i>Kae</i> <i>Jan</i>	Council District affected: I
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For additional information contact: Janet Schafer <i>JS</i> Phone: 281/233-1796 Lucy S. Ortiz	Date and identification of prior authorizing Council action: 09/24/97 (O) 97-1157
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AMOUNT & SOURCE OF FUNDING: REVENUE: \$886.56 per year	Prior appropriations: N/A
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RECOMMENDATION: (Summary)

Enact an ordinance approving and authorizing a lease agreement between the City of Houston and Manning Family Partnership, LP for certain premises at William P. Hobby Airport (HOU).

SPECIFIC EXPLANATION:

In exchange for the consideration listed below, Manning Family Partnership, LP ("Lessee") wishes to continue (1997 lease at the annual rate of \$739.00 expires on September 30, 2007) to lease from the City an exclusive drive access (subject to a 2,500 square foot Harris County Flood Control District easement) to/from Monroe Road North of Airport Boulevard that serves its adjacent fee property located at 8777 Tallyho.

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

1. Leased Premises: Approximately 3,694 square feet (approximately 0.085 acres) of improved land located adjacent to Manning Family Partnership, LP fee property located at 8777 Tallyho, William P. Hobby Airport.
2. Term: Five consecutive years effective October 1, 2007.
3. Option: Subject to the Director's consent, one 5-year option period exercised by giving the Director prior written notice.

REQUIRED AUTHORIZATION

F&A Budget:	Other Authorization:	Other Authorization:
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Date August 16, 2007	Subject: Lease Agreements – Manning Family Partnership, LP – William P. Hobby Airport (HOU)	Originator's Initials	Page 2 of 2
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4. Use: Solely as a driveway access to/from Monroe Road.
5. Rental: Based on appraisals October 1, 2007 until September 30, 2012, \$886.56 annually. If exercised, the rental amount increases by fifteen percent for the option period.
6. Performance Security: Upon the first occurrence of a late rental payment, Director may require Lessee to provide performance security in the total amount of \$147.76 which represents two month's rent.
7. Maintenance and Utilities: Lessee shall assume the entire responsibility, cost and expense for all repairs and maintenance of the Leased Premises and shall be responsible for all utilities, if any, furnished to the Leased Premises.
8. Indemnification and Insurance: Lessee shall indemnify and hold the City harmless and shall provide the required insurance in the limits as stated in the agreement.
9. Environmental Matters and Airport Rules: Lessee shall comply with all federal, state and local environmental laws and all airport policies and procedures.
10. Other: Lessee agrees to comply with all rules and regulations adopted by the airport and/or the FAA, and/or the TSA, and to comply with all federal, state and local statutes, ordinances, regulations and policies.

RMV: Iso
Attachments

- cc: Ms. Marty Stein
Mr. Anthony W. Hall, Jr.
Mr. Arturo Michel
Ms. Kathy Elek
Ms. Sara S. Culbreth
Mr. Dave Arthur
Mr. Richard Fernandez
Mr. Charles Wall
Ms. Mary Case
Mr. Brian Rinehart
Ms. Janet Schafer
Ms. Ellen Erenbaum
Mr. Randy Riven

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Lease Agreement (Parking) beneath the 527 Spur Overpass with Brennans of Houston, Inc.	Page 1 of 1	Agenda Item 21
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FROM (Department or other point of origin): General Services Department	Origination Date 8/23/07	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: Issa Z. Dadoush, P.E. <i>Issa Z. Dadoush</i> 8/16/07	Council District affected: 1
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For additional information contact: Jacquelyn L. Nisby 713-247-1814	Date and identification of prior authorizing Council action:
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RECOMMENDATION: Approve and authorize a Lease Agreement (Parking) with Brennans of Houston, Inc., Tenant, for parking beneath the 527 Spur Overpass.

Amount and Source Of Funding: Revenue	F&A Budget:
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SPECIFIC EXPLANATION: The General Services Department recommends that City Council approve and authorize a Lease Agreement with Brennans of Houston, Inc., (Brennans) for 5,831 square feet of real property located beneath the 527 Spur Overpass near the intersection of Hawthorne Street and Smith Street to be used by Brennans for parking. Brennans has utilized this property for parking since 1983 at a monthly rental of \$200.00.

The proposed Lease Agreement provides for a five-year lease term with three five-year renewal options. On the effective date of each renewal term, the rental payment will increase automatically at a rate of 2.5% compounded annually. The monthly rental is \$600; however if Brennans elects an annual payment schedule, it will receive a 10% discount.

The base lease term will commence on the first day of the first calendar month following the date of countersignature by the City Controller.

Brennans is responsible for maintenance and utilities, and may, at its sole cost and expense, make various improvements to the leased premises with the City's prior written consent.

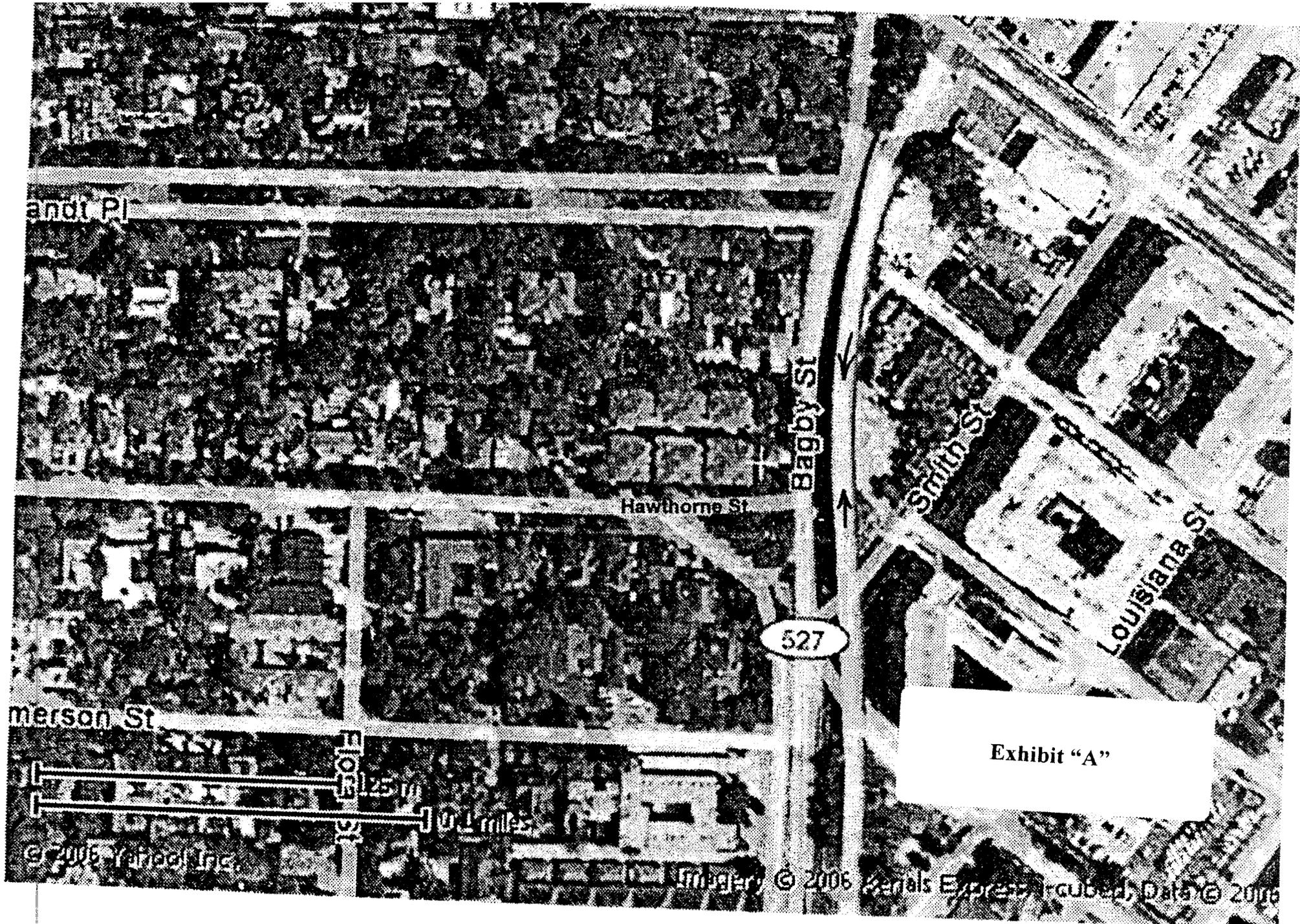
IZD:BC:JLN:JES:ddc

xc: Marty Stein, Jacquelyn L. Nisby, Anna Russell

REQUIRED AUTHORIZATION

CUIC ID# 25 JES 06

General Services Department: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr., Director Real Estate Division		
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Sandt Pl

Hawthorne St

Emerson St

Bagby St

Smith St

Louisiana St

527

Exhibit "A"

0.25 miles
0.4 miles

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Imagery © 2006 Aerial Express, Inc. Data © 2006

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

R

SUBJECT: First Amendment to Construction Contract 3D/International, Inc. Jesse H. Jones Central Library Renovation WBS No. E-000011-0001-4 Carnegie Regional Branch Library Renovation WBS No. E-000142-0001-4 Marston Administration Building WBS No. E-000158-0001-4	Page 1 of 2	Agenda Item <div style="text-align: right; font-size: 2em; font-weight: bold;">22</div>
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FROM (Department or other point of origin): General Services Department	Origination Date 8/31/07	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: <i>Issa Z. Dadoush</i> Issa Z. Dadoush, P.E.	Council Districts affected: 1
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For additional information contact: Jacquelyn L. Nisby <i>JLN</i> Phone: 713-247-1814	Date and identification of prior authorizing Council action: Ordinance 2006-0191 Dated February 22, 2006 Ordinance 2006-0663 Dated June 21, 2006
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RECOMMENDATION: Approve First Amendment to the construction contract and appropriate funds for the project.

Amount and Source of Funding: \$1,246,349.10 Public Library Consolidated Construction Fund (4507)	F & A Budget: <i>MSL</i>
Previous Funding: \$9,918,000.00 Public Library Consolidated Construction Fund 439 \$6,848,281.00 Public Library Consolidated Construction Fund 439	
\$16,766,281.00 Total Funding	

SPECIFIC EXPLANATION: On February 22, 2006, City Council awarded a construction contract to 3D/International, Inc. and appropriated a 10% contingency to address unforeseen conditions associated with the repair of the facilities. However, due to a multitude of unforeseen conditions and the costs associated with time delays, an additional contingency amount is required to complete the renovation of Jesse H. Jones Central Library.

The General Services Department recommends that City Council approve a First Amendment to the Construction Contract with 3D/International, Inc. to increase the director's authority to approve Change Orders up to 21% of the original contract price. The requested appropriation will partially fund the additional contingency amount, and the remaining funds in the amount of \$400,000 will be reallocated from the deletion of an allowance for civic art that was included in the original appropriation. Civic art for the Jesse H. Jones Central Library will be completed under a separate contract.

- This First Amendment is necessary to address the following unforeseen conditions:
- Existing construction inconsistent with project record documents.
 - Structural and fire code violations.
 - Deteriorated structural integrity.

PROJECT LOCATION: Jesse H. Jones Central Library
 500 McKinney St. (493-L)

PROJECT DESCRIPTION: The project involves renovation of the 329,000 SF Jesse H. Jones Central Library.

REQUIRED AUTHORIZATION		NOT CUIC ID # 25WTH51
General Services Department: <i>Wendy Teas Heger</i> Wendy Teas Heger, AIA Chief of Design & Construction Division	Other Authorization: 	Houston Public Library: <i>Rhea Brown Lawson</i> Rhea Brown Lawson, Ph.D., Director

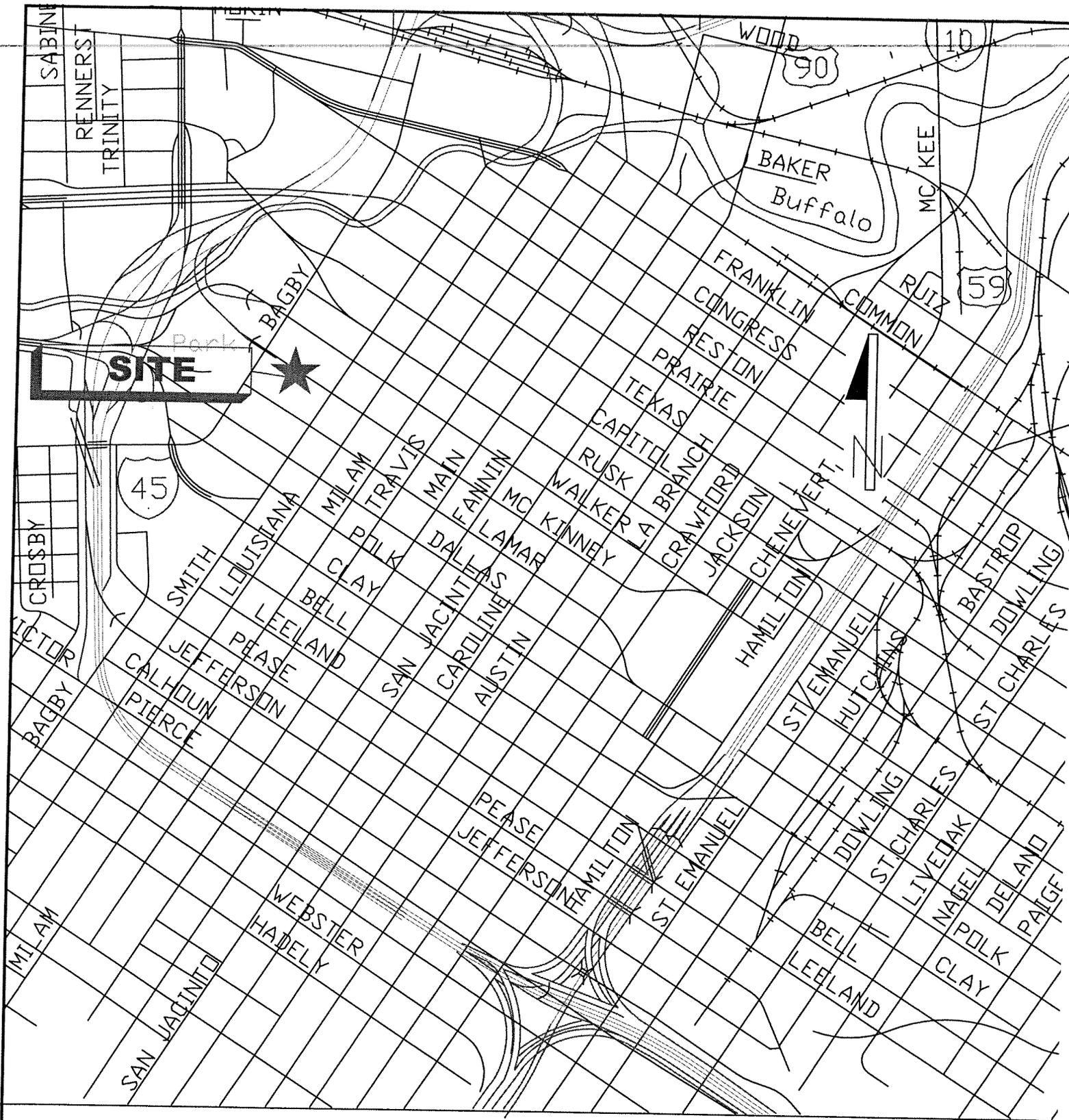
DATE:	SUBJECT: First Amendment to Construction Contract 3D/International, Inc. Jesse H. Jones Central Library Renovation WBS No. E-000011-0001-4 Carnegie Regional Branch Library Renovation WBS No. E-000142-0001-4 Marston Administration Building WBS No. E-000158-0001-4	Originator Initials JBW	Page 2 of 2
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PREVIOUS HISTORY AND SCOPE: On February 22, 2006, City Council awarded a construction contract to 3D/International, Inc. to provide construction services for the renovations of Jesse H. Jones Central Library, Carnegie Regional Branch Library, and the Marston Administration Building. City Council appropriated \$9,918,000.00 to partially fund the FY06 construction costs for the three building project. On June 21, 2006, City Council appropriated the remaining FY07 construction costs to complete renovations to the Jesse H. Jones Central Library.

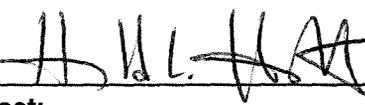
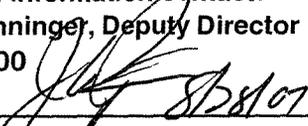
M/WBE INFORMATION: A M/WBE goal of 17% has been established for this additional appropriation. The contractor will utilize the M/WBEs referenced in the original contract to achieve the goal. The original contract has a 17% M/WBE goal. To date, the contractor has achieved 27% participation.

IZD:WTH:JLNMCP jb

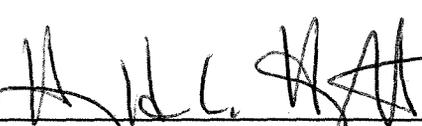
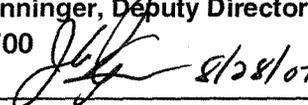
c: Issa Z. Dadoush, Wendy Teas Heger, Marty Stein, Jacquelyn L. Nisby, James Tillman, Joseph Kurian, Kim Nguyen, File



Jesse H. Jones Central Library
500 McKinney Street

SUBJECT: (STEP)- Comprehensive Commercial Motor Vehicle Program		Category #	Page 1 of 1	Agenda Item # 23
FROM: (Department or other point of origin): Houston Police Department		Origination Date August 29, 2007		Agenda Date SEP 05 2007
DIRECTOR'S SIGNATURE: Harold L. Hurtt, Chief of Police 		Council Districts affected: All		
For additional information contact: Joseph A. Fenninger, Deputy Director (713) 308-1700  C.T. Davis, Sergeant (713) 308-1972		Date and identification of prior authorizing Council Action:		
RECOMMENDATION: (Summary) To create an ordinance, approving and authorizing the grant application and acceptance of the award for Texas Department of Transportation (TXDOT), Commercial Motor Vehicle Program Grant.				
Amount of Funding:			F & A Budget:	
<u>TXDOT</u> \$356,499.66	<u>IN-KIND</u> \$304,815.47	<u>TOTAL FUNDING</u> \$661,315.13		
SOURCE OF FUNDING: <input type="checkbox"/> General Fund <input checked="" type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund <input type="checkbox"/> Other (Specify)				
SPECIFIC EXPLANATION Texas Department of Transportation Comprehensive Commercial Motor Vehicle Safety Program Grant (STEP) The Houston Police Department is requesting approval to apply for the Texas Department of Transportation, Comprehensive Commercial Motor Vehicle Safety Program Grant. TXDOT will award \$356,499.66 requiring a city in-kind match of \$304,815.47, for a 12-month grant period for a total funding of \$661,315.13. The grant will provide funding for personnel over the next 12 months to reduce the amount of dangerous commercial motor vehicles through inspections and additional enforcements. The Comprehensive Commercial Motor Vehicle Program has decreased the number of commercial vehicle crashes in the City of Houston. cc: Arturo Michel, City Attorney Marty Stein, Agenda Director Anna Russell, City Secretary				
REQUIRED AUTHORIZATION				
F&A Director:		Other Authorization:		Other Authorization:

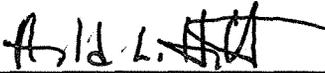
MS

SUBJECT: (STEP)- Comprehensive Grant		Category #	Page 1 of 1	Agenda Item # 24
FROM: (Department or other point of origin): Houston Police Department		Origination Date August 29, 2007		Agenda Date SEP 05 2007
DIRECTOR'S SIGNATURE: Harold L. Hurtt, Chief of Police 		Council Districts affected: All		
For additional information contact: Joseph A. Fenninger, Deputy Director (713) 308-1700  8/28/07 C.T. Davis, Sergeant (713) 308-1972		Date and identification of prior authorizing Council Action:		
RECOMMENDATION: (Summary) To create an ordinance approving, authorizing and accepting a grant application for Texas Department of Transportation (TXDOT), Comprehensive Grant.				
Amount of Funding:			F & A Budget: 	
<u>TXDOT</u> \$843,500.00	<u>IN-KIND</u> \$1,567,451.53	<u>TOTAL FUNDING</u> \$2,410,951.53		
SOURCE OF FUNDING: <input type="checkbox"/> General Fund <input checked="" type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund <input type="checkbox"/> Other (Specify)				
SPECIFIC EXPLANATION Texas Department of Transportation Comprehensive Grant (STEP) The Houston Police Department is requesting approval to apply for the Texas Department of Transportation, Comprehensive Grant. This will be the eighth year of funding from the Texas Department of Transportation (TXDOT) for this program. TXDOT will award-\$843,500.00 requiring a city in-kind match of \$1,567,451.53, for a 12-month grant period for a total funding of \$2,410,951.53. The (STEP) Comprehensive Grant plays an integral part in the department's overall objective to reduce the number of motorists driving while intoxicated, increase the amount of speed enforcement, increase patrols for occupancy protection (safety restraints), as well as increase the enforcement of laws at intersections. cc: Arturo Michel, City Attorney Marty Stein, Agenda Director Anna Russell, City Secretary				
REQUIRED AUTHORIZATION				
F&A Director:		Other Authorization:		Other Authorization:

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: SMART Office Support for Adam Walsh Act Implementation Grant - FY 2008 Grant Proposal	Category #	Page 1 of 1	Agenda Item # 25
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FROM: (Department or other point of origin): Houston Police Department	Origination Date August 22, 2007	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE: Harold L. Hurtt, Chief of Police 	Council Districts affected: All
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For additional information contact: Joseph A. Fenninger, Deputy Director Office # 713-308-1700	C. T. Davis, Sergeant 713-308-1972	Date and identification of prior authorizing Council Action: N/A
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RECOMMENDATION: (Summary) Create an Ordinance authorizing the submission of a grant proposal from the Bureau of Justice Assistance, Office of Justice Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) Office to promptly register and perform updates for sex offenders residing within the city limits of Houston and to ensure that sex offenders are in compliance with the requirements set forth in the Federal Sex Offender Registration and Notification Act (SORNA) as well as Chapter 62 of the Texas Code of Criminal Procedure.

Amount of Funding:				F & A Budget:
<u>BJA Funding</u>	<u>City Match Funding</u>	<u>City Match In-Kind</u>	<u>Total Funding</u>	
\$ 297,489.92	\$20,581.89	\$78,418.61	\$396,490.42	

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

25% match is required by the City

SPECIFIC EXPLANATION

Funding is necessary to implement a comprehensive overtime strategy designed to expand the operating hours of the registration and compliance units and utilize a geographic strategy in order to maximize efficiency and effectiveness in an effort to promptly register and update all sex offenders within the timeframe set forth in existing federal and state statutes and conduct a minimum of one (1) compliance check for each of the anticipated 5700 registrations and updates occurring during the scope of this project.

cc: Arturo Michel, City Attorney
Marty Stein, Agenda Director
Anna Russell, City Secretary

REQUIRED AUTHORIZATION

F&A Director:	Other Authorization:	Other Authorization:
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TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

HCD07-157

07-08-THE CENTER

SUBJECT: An Ordinance authorizing a Contract Between the City of Houston and The Center Serving Persons With Mental Retardation to allow for funding for Persons with a Diagnosis of Mental Retardation and provide medical and dental services to persons with mental illness.

Category # 1

Page 1 of 2

Agenda Item #

26

FROM (Department or other point of origin):

Richard S. Celli, Director
Housing and Community Development

Origination Date

08/16/07

Agenda Date

SEP 05 2007

DIRECTOR'S SIGNATURE:

Richard S. Celli

Council District affected: D

For additional information contact: Donald Sampley
Phone: 713-868-8458

Date and identification of prior authorizing Council action: N/A

RECOMMENDATION: (Summary)

Approval of an Ordinance authorizing a Contract Between the City of Houston and The Center Serving Persons with Mental Retardation for utilizing funds to provide vocational training and medical and dental services to individuals with a primary diagnosis of mental retardation.

Amount of Funding:

\$200,000.00 - 1 YEAR

F&A Budget:

[Signature]

SOURCE OF FUNDING

General Fund

Grant Fund

Enterprise Fund

Other (Specify) COMMUNITY DEVELOPMENT BLOCK GRANT FUND (5000)

SPECIFIC EXPLANATION:

The Housing and Community Development Department recommends approval of a Contract between the City of Houston and The Center Serving Persons with a Diagnosis of Mental Retardation (The Center).

This contract provides for an array of services to assist a sizeable number of individuals with developmental disabilities in the City of Houston. The Center will provide vocational work skills training, employment services, support services and health/dental services to persons with a diagnosis of mental retardation. The Center will provide 300- plus adults per day participating in the program the opportunity to develop their vocational and employments skills and receive 10 hours essential dental services and 10 hours of medical care at their medical and dental clinics to assist these individuals.

These services will have a very positive impact on individuals with a diagnosis of mental retardation and their quality of life.

This Contract will enable adults with a primary diagnosis of mental retardation to acquire the skills and health care they need to be contributing members of the community and maximize personal independence by providing training in daily living skills and community exposure.

REQUIRED AUTHORIZATION

F&A Director:

Other Authorization:

Other Authorization:

MS

Date: 08/16/07	Subject: SEE PAGE 1	Originator's Initials 	Page 2 of 2
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The Housing and Community Development Department recommends approval of a Contract for services in the amount of \$200,000.00 for a performance period of one year beginning September 1, 2007 – August 31, 2008.

Therefore, approval is recommended for this Contract.

The Housing and Community Development Committee reviewed this item and recommended it for council action on August 14, 2007.

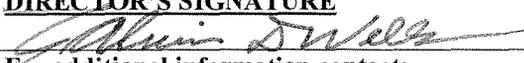
RSC:DG:DS:PAB:pab

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

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary		RCA# 7512	
Subject: Formal Bids Received for Concrete Repair Services for Various Departments S25-C22344	Category # 4	Page 1 of 2	Agenda Item 27

FROM (Department or other point of origin): Calvin D. Wells City Purchasing Agent Finance and Administration Department	Origination Date August 08, 2007	Agenda Date SEP 05 2007
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DIRECTOR'S SIGNATURE 	Council District(s) affected All
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For additional information contact: Jacquelyn L. Nisby Phone: (713) 247-1814 Ray DuRousseau Phone: (713) 247-1735	Date and Identification of prior authorizing Council Action:
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RECOMMENDATION: (Summary)
Approve an ordinance appropriating \$196,000.00 out of the Fire Consolidated Construction Fund (Fund 4500) and award a contract to Spring Equipment Company, Inc. in an amount not to exceed \$2,625,020.44 for concrete repair services for various departments.

Maximum Contract Amount: \$2,625,020.44 (3 years)	F & A Budget
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(See Estimated Spending Plan on pg. 2)

SPECIFIC EXPLANATION:
The City Purchasing Agent recommends that City Council approve an ordinance appropriating \$196,000.00 out of the Fire Consolidated Construction Fund (Fund 4500). It is further recommended that City Council approve a one-year contract with two one-year options to extend, for a total three-year term to Spring Equipment Company, Inc. on its low bid in an amount not to exceed \$2,625,020.44 for concrete repair services for various departments. The City Purchasing Agent may terminate this contract at any time upon 30-days written notice to the contractor. This contract will be used, as necessary, to repair and construct sidewalks, driveways, small building foundation slabs, expansion joints, curbs and gutters, and wheelchair access ramps. Any appropriations of bond funds will require further Council approval. The Estimated Spending Plan below gives an estimated breakdown by department and funding source.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Twenty-two prospective bidders viewed the solicitation document on SPD's e-bidding website and two bids were received as outlined below:

<u>Company</u>	<u>Total Amount</u>
1. Spring Equipment Company, Inc.	\$2,625,020.44
2. Total Contracting Limited	\$7,585,133.00

- Due to the disparity between the bids, Strategic Purchasing spoke with a representative of Spring Equipment Company, Inc. to discuss and review the scope of work for this project. Spring Equipment Company, Inc.'s representative stated that its bid includes all costs associated with performing the work called for in the bid specifications. Based on the aforementioned, Strategic Purchasing and the affected departments are confident that the recommended company can perform the specified work for the price bid.

The scope of work requires the construction contractor to furnish all labor, equipment, materials, supervision and transportation necessary to repair and construct all types of concrete structures at various locations within the City. This contract will be used for scheduled maintenance, emergency repairs and new

REQUIRED AUTHORIZATION

F&A Director:	Other Authorization:	Other Authorization: NDT
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Date: 8/8/2007	Subject: Formal Bids Received for Concrete Repair Services for Various Departments S25-C22344	Originator's Initials TS	Page 2 of 2
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installations, as necessary. Materials and workmanship for this project are warranted for one year upon completion and acceptance of each work order.

M/WBE and SBE Subcontracting:

This invitation to bid was issued as a goal-oriented contract with a 15% M/WBE and a 5% SBE participation level. Spring Equipment Company, Inc. has designated the below-named companies as its M/WBE and SBE subcontractors.

<u>Name</u>	<u>Type of Work</u>	<u>Dollar Amount</u>	<u>Percentage</u>
Earth Materials Services LLC	Trucking	\$150,000.00	5.7
El Dorado Paving Co., Inc.	Paving	\$135,000.00	5.1
Paradigm Outsourcing Services	Labor	\$180,000.00	6.8
Paradigm Outdoor Supply, LLC	Materials	\$105,000.00	4.0
			21.6%

The Affirmative Action Division will monitor this contract.

Buyer: Tom Smyer

Estimated Spending Plan			
Department	FY 2008	Out Years	Total
General Services	\$299,546.00	\$1,747,123.44	\$2,046,669.44
Fire Consolidated Construction Fund (4500)	\$196,000.00	\$1,000,000.00	
GSD In-House Renovation Revolving Fund (1003)	\$50,000.00	0	
General Fund (1000)	\$53,546.00	\$111,900.00	
Parks Consolidated Construction Fund (4502)	0	\$535,223.44	
Solid Waste Consolidated Construction Fund 4503	0	\$100,000.00	
Public Works & Engineering	\$320,000.00	\$180,026.00	\$500,026.00
Water & Sewer System Operating Fund (8300)	\$20,000.00	\$180,026.00	
General Fund 1000	\$300,000.00	0	
Solid Waste Management (General Fund 1000)	\$26,108.33	\$52,216.67	\$78,325.00
Grand Total	\$645,654.33	\$1,979,366.11	\$2,625,020.44

SUBJECT: Interlocal Cost Sharing Contract between City of Houston and Harris County Municipal Utility District No. 410 for the construction of water, sanitary sewer and storm sewer lines. S-000800-0102-4/ R-000800-0102-4/ M-000800-0102-4	Page 1 of 2	Agenda Item # 28
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FROM: (Department or other point of origin) Department of Public Works & Engineering	Origination Date: 8-17-07	Agenda Date: SEP 05 2007
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Director's Signature: <i>Michael S. Marcotte</i> Michael S. Marcotte, P.E. DEE	Council District affected: E
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For additional information contact: Jun Chang, P.E. (713) 837-0433	Date and identification of prior authorizing Council action: Ordinance #: 05-0198 Dated: 3/9/05
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Recommendation: (Summary)
Approve an Interlocal Cost Sharing Contract between the City and Harris County Municipal Utility District No. 410 and appropriate funds.

Amount & Source of Funding:	\$176,452.00	Water & Sewer System Consolidated Construction Fund No. 8500
	\$128,477.00	Drainage Improvement CPaper Series F Fund No. 4030
	\$304,929.00	Total Appropriation

Paul Turner
07/26/07

Specific Explanation:
The City and Harris County Municipal Utility District No. 410 (MUD 410), an in-City municipal utility district, entered into the Utility Functions and Services Allocation Agreement on March 9, 2005. Under the Utility Functions and Services Allocation Agreement, MUD 410 will construct water, sewer and storm water facilities and dedicate these facilities to the City. The population of MUD 410 will be retail water and sewer customers of the City. MUD 410 will be reimbursed for part of its costs for construction through an interlocal agreement that is substantially the same as the City's developer participation contract. Under the Interlocal Agreement with the City, the District will design and construct the mains necessary to serve the development (water and wastewater) and dedicate them to the City in exchange for 70% reimbursement of the construction cost and 100% of the design cost. The Interlocal Agreement also provides for the City to reimburse the District 100% of the cost to design and construct storm water mains and appurtenances, up to a maximum of \$3,000.00 per lot, if the homes qualify as affordable housing (sell for less than the median price of a house in Houston). The Interlocal Agreement further allows the City to pay interest costs incurred by the District. The District will be reimbursed after 25% of the residences have been built. The district has eighteen (18) months from the date of the contract to begin construction and three (3) years from the beginning of construction to complete the number of houses necessary for reimbursement.

Harris County Municipal Utility District No. 410 proposes to construct approximately 2,270 linear feet of water line, 2,550 linear feet of sanitary sewer line and 920 linear feet of storm sewer line to serve the 58-lot subdivision, Clearview Village Section 4. The maximum amounts to be reimbursed are as follows:

REQUIRED AUTHORIZATION: 20JZC254

F&A Budget: <i>all</i>	Other Authorization:	Other Authorization: <i>Andrew F. Icken</i> Andrew F. Icken, Deputy Director Planning & Development Services
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SUBJECT: Interlocal Cost Sharing Contract between City of Houston and Harris County Municipal Utility District No. 410 for the construction of water, sanitary sewer and storm sewer lines.

**Originator's
Initials**

**Page
2 of 2**

Water

70% of construction cost (including interest & 5% contingency):	\$72,154.00
design cost:	<u>\$8,640.00</u>
total:	\$80,794.00

Wastewater

70% of construction cost (including interest & 5% contingency):	\$85,428.00
design cost:	<u>\$10,230.00</u>
total:	\$95,658.00

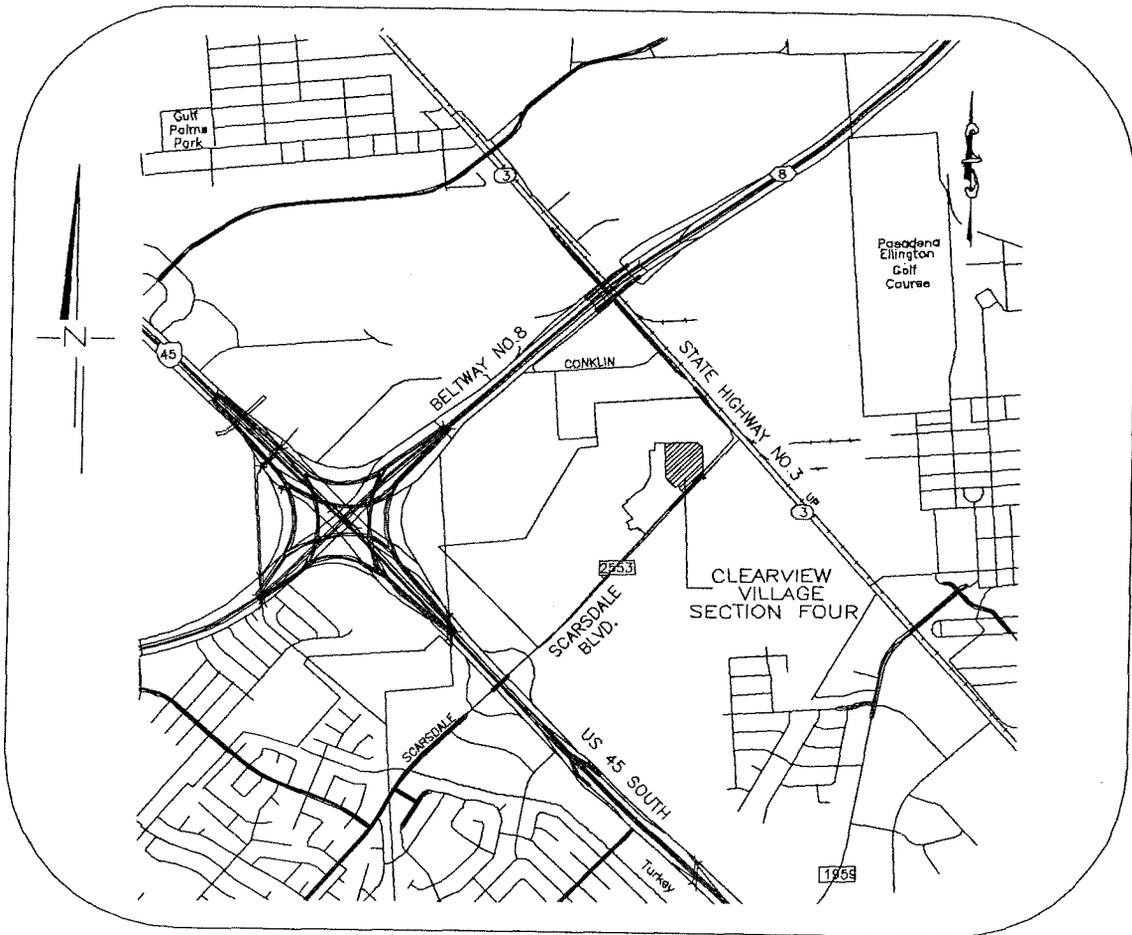
Storm Sewer (Including appropriate detention)

100% of construction cost (including interest & 5% contingency):	\$123,684.00
design cost:	<u>\$4,793.00</u>
total:	\$128,477.00

Upon approval of this agreement, MUD 410 will proceed with preparation of construction drawings and specifications for the project. The project will then be advertised by MUD 410 in accordance with state bid laws. The Department of Public Works and Engineering will inspect the construction of the mains and review the final construction cost to determine the actual amount of the City's share.

AFI:JC:MAS:tp

c: Marty Stein
Craig Foster
John Sakolosky



V i c i n i t y M a p
N.T.S.
Key Map 577W

SUBJECT: Interlocal Cost Sharing Contract between City of Houston and Harris County Municipal Utility District No. 410 for the construction of water, sanitary sewer and storm sewer lines. S-000800-0108-4/ R-000800-0108-4/ M-000800-0108-4	Page 1 of 2	Agenda Item # <div style="font-size: 2em; text-align: center;">29</div>
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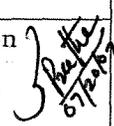
FROM: (Department or other point of origin) Department of Public Works & Engineering	Origination Date:	Agenda Date: SEP 05 2007
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Director's Signature:  Michael S. Marcotte, P.E. DEE	Council District affected: E
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For additional information contact: Jun Chang, P.E. (713) 837-0433	Date and identification of prior authorizing Council action: Ordinance #: 05-0198 Dated: 3/9/05
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Recommendation: (Summary)

Approve an Interlocal Cost Sharing Contract between the City and Harris County Municipal Utility District No. 410 and appropriate funds.

Amount & Source of Funding:	\$270,606.00 Water & Sewer System Consolidated Construction Fund No. 8500 \$300,000.00 Drainage Improvement CPaper Series F Fund No 4030 \$570,606.00 Total Appropriation	
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Specific Explanation:

The City and Harris County Municipal Utility District No. 410 (MUD 410), an in-City municipal utility district, entered into the Utility Functions and Services Allocation Agreement on March 9, 2005. Under the Utility Functions and Services Allocation Agreement, MUD 410 will construct water, sewer and storm water facilities and dedicate these facilities to the City. The population of MUD 410 will be retail water and sewer customers of the City. MUD 410 will be reimbursed for part of its costs for construction through an interlocal agreement that is substantially the same as the City's developer participation contract. Under the Interlocal Agreement with the City, the District will design and construct the mains necessary to serve the development (water and wastewater) and dedicate them to the City in exchange for 70% reimbursement of the construction cost and 100% of the design cost. The Interlocal Agreement also provides for the City to reimburse the District 100% of the cost to design and construct storm water mains and appurtenances, up to a maximum of \$3,000.00 per lot, if the homes qualify as affordable housing (sell for less than the median price of a house in Houston). The Interlocal Agreement further allows the City to pay interest costs incurred by the District. The District will be reimbursed after 25% of the residences have been built. The district has eighteen (18) months from the date of the contract to begin construction and three (3) years from the beginning of construction to complete the number of houses necessary for reimbursement.

Harris County Municipal Utility District No. 410 proposes to construct approximately 3,020 linear feet of water line, 4,460 linear feet of sanitary sewer line and 2,980 linear feet of storm sewer line to serve the 100-lot subdivision, Clearview Village Section 5. The maximum amounts to be reimbursed are as follows:

REQUIRED AUTHORIZATION: 20JZC305

F&A Budget: 	Other Authorization:	Other Authorization:  Andrew F. Icken, Deputy Director Planning & Development Services
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SUBJECT: Interlocal Cost Sharing Contract between City of Houston and Harris County Municipal Utility District No. 410 for the construction of water, sanitary sewer and storm sewer lines.

**Originator's
Initials**

**Page
2 of 2**

Water

70% of construction cost (including interest & 5% contingency):	\$83,626.00
design cost:	<u>\$12,525.00</u>
total:	\$96,151.00

Wastewater

70% of construction cost(including interest & 5% contingency):	\$151,730.00
design cost:	<u>\$22,725.00</u>
total:	\$174,455.00

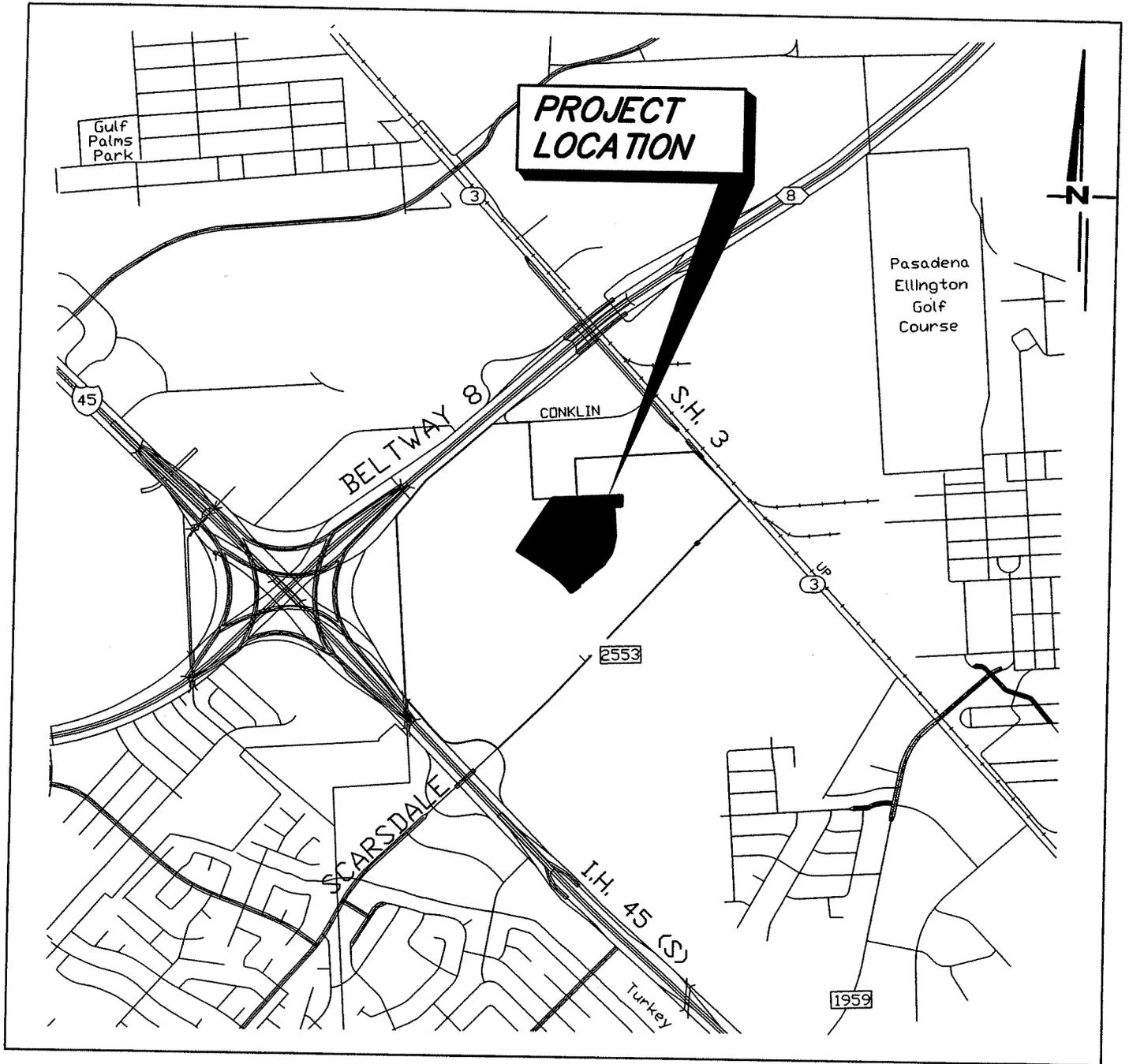
Storm Sewer (Including appropriate detention)

100% of construction cost (including interest & 5% contingency):	\$255,000.00
design cost:	<u>\$45,000.00</u>
total:	\$300,000.00

Upon approval of this agreement, MUD 410 will proceed with preparation of construction drawings and specifications for the project. The project will then be advertised by MUD 410 in accordance with state bid laws. The Department of Public Works and Engineering will inspect the construction of the mains and review the final construction cost to determine the actual amount of the City's share.

AFI:JC:MAS:tp

c: Marty Stein
Craig Foster
John Sakolosky



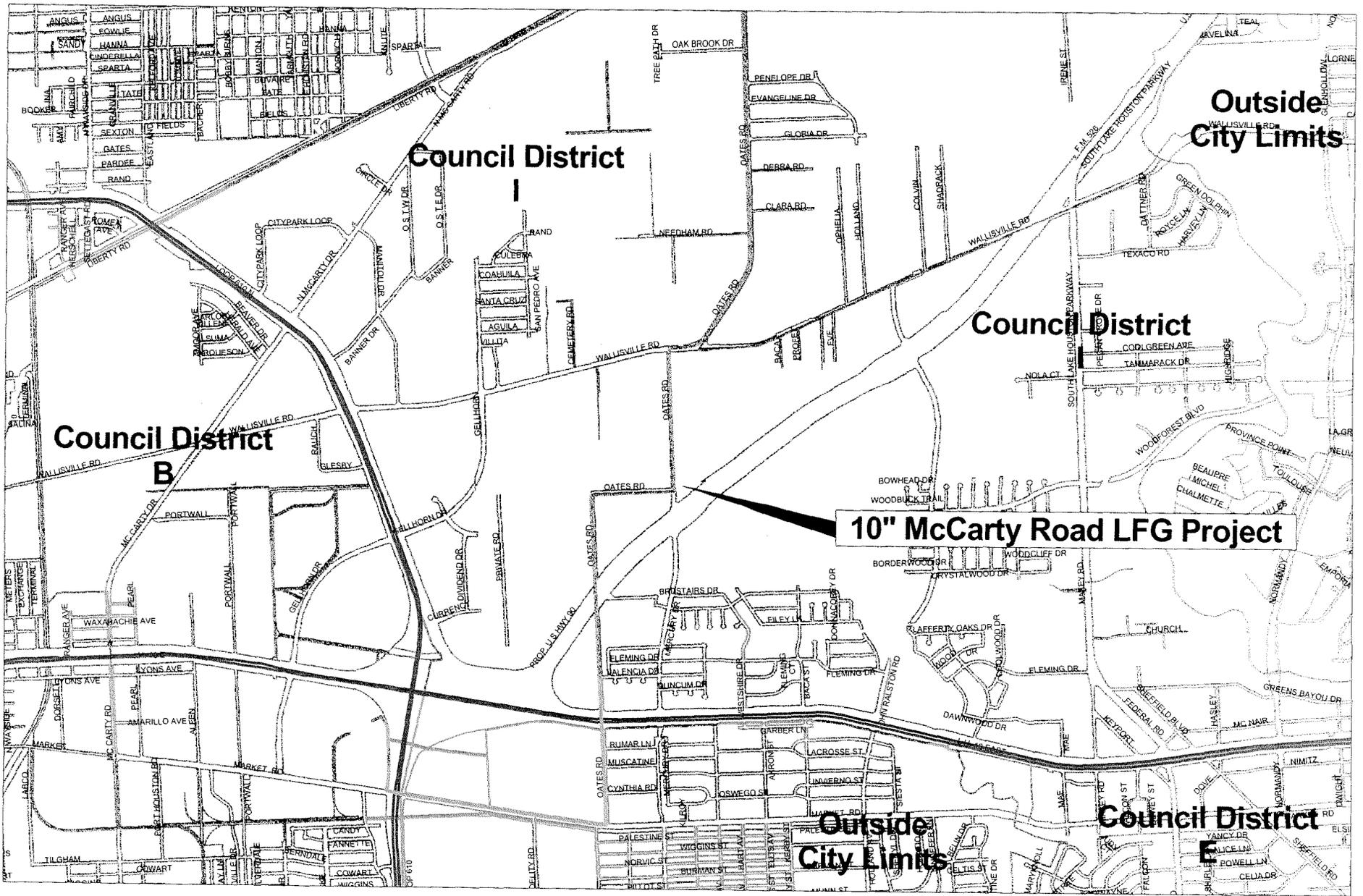
**CLEARVIEW VILLAGE SEC. 5
VICINITY MAP
N.T.S.**

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA #20JBX49

<p>SUBJECT: Ordinance to issue a pipeline permit to Ameresco McCarty Energy, LLC for one new pipeline for the underground transportation of materials within portions of certain City street rights of way.</p>	<p>Category #</p>	<p>Page 1 of 1</p>	<p>Agenda Item# 30</p>						
<p>FROM: (Department or other point of origin): Michael Marcotte, P.E., Director Public Works and Engineering</p>	<p>Origination Date 8/30/07</p>		<p>Agenda Date SEP 05 2007</p>						
<p>DIRECTOR'S SIGNATURE: <i>Michael Marcotte 8/16/07</i> Michael Marcotte, P.E., Director</p>	<p>Council Districts affected: B1 <i>JS</i></p>								
<p>For additional information contact: Jim Boxley Phone: (713) 837- 7099</p>	<p>Date and identification of prior authorizing Council Action:</p>								
<p>RECOMMENDATION: (Summary) Approve an ordinance granting a permit to Ameresco McCarty Energy, LLC., a Delaware Limited Partnership, to operate, maintain, improve, repair and replace a new pipeline for underground transportation of materials under portions of certain street rights of way.</p>									
<p>Amount of Funding: N/A</p>		<p>F & A Budget:</p>							
<p>SOURCE OF FUNDING: [] General Fund [] Grant Fund [] Enterprise Fund [] Other (Specify)</p>									
<p>SPECIFIC EXPLANATION:</p> <p>It is recommended that City Council approve a pipeline permit pursuant to the provisions of Article IX of Chapter 40 of the Code of Ordinances, authorizing Ameresco McCarty Energy, LLC., a Delaware Limited Partnership, to operate, maintain, improve, repair a new pipeline for the underground transportation of materials under portions of certain street rights of way in the City, as listed below and more specifically detailed in the permit ordinance:</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Pipeline Name</th> <th style="text-align: left; border-bottom: 1px solid black;">Diameter Size</th> <th style="text-align: left; border-bottom: 1px solid black;">Materials Transporting</th> </tr> </thead> <tbody> <tr> <td>1. McCarty Road LFG Project</td> <td>10 inch</td> <td>Landfill Gas</td> </tr> </tbody> </table> <p>The permit is for 30 years. Ameresco McCarty Energy, LLC., submitted the initial required application permit fee of \$2,000.00 and \$1,000.00 per pipeline for a total of \$3,000.00.</p> <p>LOCATION: The pipeline is located in Key Map grids 456NSW; 495DHGLM; 496A</p> <p>MM:SB:JB cc: Marty Stein Susan Bandy Dennis Alexander Debra Caldwell Gary Norman</p>				Pipeline Name	Diameter Size	Materials Transporting	1. McCarty Road LFG Project	10 inch	Landfill Gas
Pipeline Name	Diameter Size	Materials Transporting							
1. McCarty Road LFG Project	10 inch	Landfill Gas							
REQUIRED AUTHORIZATION			CUIC ID 20JBx49						
<p>F&A Director:</p>	<p>Other Authorization:</p>	<p>Other Authorization: <i>Susan Bandy</i> Susan Bandy, Deputy Director Resource Management</p>							



Outside
City Limits

Council District

Council District

10" McCarty Road LFG Project

Outside
City Limits



Ameresco McCarty Energy, LLC

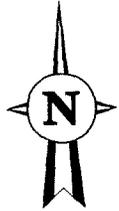


Council District

Ameresco McCarty Energy, LLC
N.T.S.

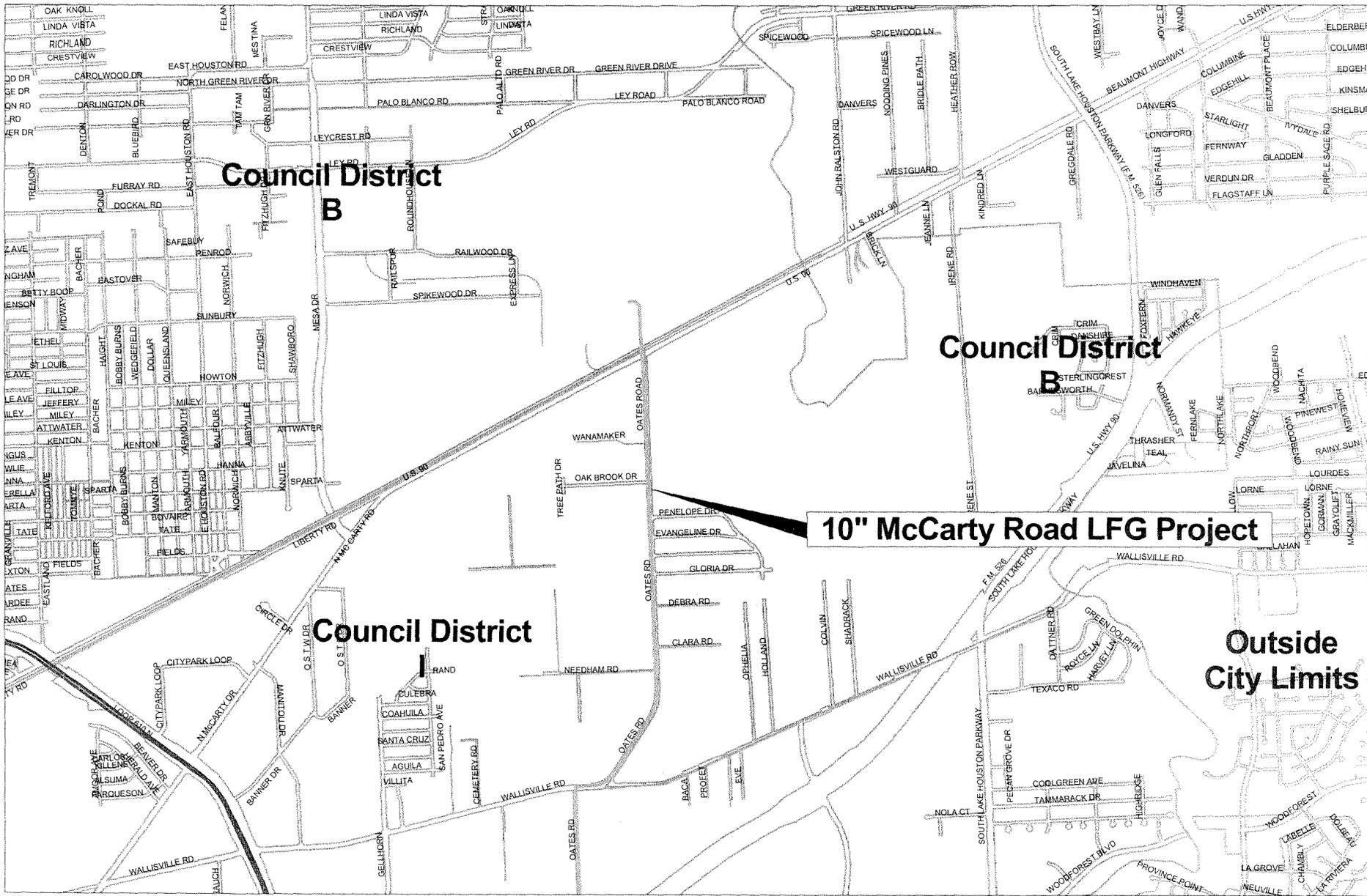
Location Map
Council District "BI"

Key Map 456SW; 495DHGLM; 496A



CITY OF HOUSTON
PUBLIC WORKS AND ENGINEERING

AMERESCO McCARTY ENERGY, LLC
PIPELINE PERMIT REQUEST
N.T.S.



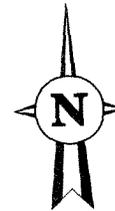
Ameresco McCarty Energy, LLC



Council District

Ameresco McCarty Energy, LLC
N.T.S.

Location Map
Council District "B"
Key Map 456NSW



CITY OF HOUSTON
PUBLIC WORKS AND ENGINEERING

AMERESCO McCARTY ENERGY, LLC
PIPELINE PERMIT REQUEST
N.T.S.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary		RCA #	
SUBJECT: Ordinances granting Commercial Solid Waste Operator Franchises	Category #	Page 1 of 1	Agenda Item# <i>31 & 32</i>
FROM: (Department or other point of origin): Judy Gray Johnson, Director Finance and Administration	Origination Date August 23, 2007	Agenda Date SEP 05 2007	
DIRECTOR'S SIGNATURE: <i>Judy Gray Johnson</i>	Council Districts affected: ALL		
For additional information contact: Wendy E. Thomas Phone: (713) 837- 9623 Tina Paez Phone: (713) 837- 9630	Date and identification of prior authorizing Council Action: Ord. # 2002-526 – June 19, 2002; Ord. # 2002-1166-December 18, 2002.		

RECOMMENDATION: (Summary)

Approve ordinances granting Commercial Solid Waste Operator Franchises

Amount of Funding: NA	F & A Budget:
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SOURCE OF FUNDING: General Fund Grant Fund Enterprise Fund Other (Specify)

SPECIFIC EXPLANATION:

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

1. TNT Waste Container Service
2. Mayfield Trucking, LLC

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to 4% of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the franchise, the City has the right to inspect, and the company has the duty to maintain, required customer records during regular business hours. The franchise contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed franchise terms expire on December 31, 2013.

REQUIRED AUTHORIZATION

F&A Director:

REQUEST FOR COUNCIL ACTION

RCA# 7518

TO: Mayor via City Secretary

Subject: Formal Bids Received for Water Meters and Water Meter Replacement Parts for the Public Works & Engineering Department S13-S22191

Category #
1 & 4

Page 1 of 2 Agenda Item

33-8

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Finance and Administration Department

Origination Date

August 23, 2007

Agenda Date

SEP 05 2007
~~AUG 29 2007~~

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected

All

For additional information contact:

Gary Norman Phone: (713) 837-7425
Desiree Heath Phone: (713) 247-1722

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Award sole bids in an amount not to exceed \$12,169,038.00 for water meters and water meter replacement parts for the Public Works & Engineering Department.

Estimated Spending Authority \$12,169,038.00

F & A Budget

\$ 2,237,301.00 Water & Sewer System Operating Fund (8300)
\$ 9,931,737.00 Combined Utility System General Purpose Fund (8305)
\$12,169,038.00 Total

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve awards for water meters and water meter replacement parts, as shown below, in an amount not to exceed \$12,169,038.00, for the Public Works & Engineering Department. It is further requested that authorization be given to make purchases, as needed, for a 60-month period. These awards will consolidate procurement of the four manufactured brands of new water meters in use by the Department, as well as respective replacement parts for each brand. The meters and parts, such as measuring chambers, rotor assemblies, gear train assemblies, calibration vane stem gears, spindles, inlet and outlet assembly parts and drive pinions, will be used by the Department to replace and repair both residential and commercial water meters citywide.

This is a price list solicitation. The best discount which determines the low bid for a price list is the best bid received for quantities of high-use items selected as sample pricing items based on the current needs of the Department. The bid total for sample pricing items does not represent the total amount to be purchased; rather, this award recommendation is for the total estimated expenditures projected over the 60-month period based on the low bid submitted for the representative samples.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Twenty-two bidders viewed the solicitation document on SPD's e-bidding website, and four sole bids were received as detailed below.

Badger Meter, Inc.: Award on its sole bid for Item Nos. 1, 2 and 3 (Badger water meters with or without trade-in price list, Badger water meter factory component exchange price list, and Badger water meter parts price list), in an amount not to exceed \$8,630,476.00. A sole bid was received from Badger Meter, Inc. because they are the manufacturer and only sell through their manufacturing representative in the area.

HD Supply Waterworks: Award on its sole bid for Item No. 5 (Neptune Technology Group, Inc. price list), in an amount not to exceed \$1,130,125.00. A sole bid was received from HD Supply Waterworks because

REQUIRED AUTHORIZATION

F&A Director:

Other Authorization:

Other Authorization:

Date: 8/23/2007	Subject: Formal Bids Received for Water Meters and Water Meter Replacement Parts for the Public Works & Engineering Department S13-S22191	Originator's Initials LM	Page 2 of 2
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Neptune Technology Group, Inc. is the manufacturer and they only sell through their manufacturing representative in the area.

Aqua-Metric Sales Company: Award on its sole bid for Item No. 6 (Sensus Metering Systems, Inc. price list), in an amount not to exceed \$1,370,908.00. A sole bid was received from Aqua-Metric Sales Company because Sensus Metering Systems, Inc. is the manufacturer and they only sell through their manufacturing representative in the area.

Macaulay Controls Company: Award on its sole bid for Item Nos. 7 and 8 (Krohne Electromagnetic Flowmeter System Distributor Parts price list and Krohne Electromagnetic Flowmeter System Distributor's Meter price list), in an amount not to exceed \$1,037,529.00. A sole bid was received from Macaulay Controls Company because Krohne, Inc. is the manufacturer and they only sell through their manufacturing representative in the area.

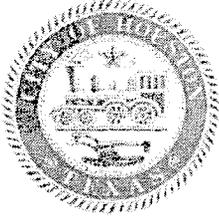
Item No. 4 is not being awarded.

The Affirmative Action Division has approved a 0% M/WBE goal. All four of the suppliers will ship meters and parts by common carrier from outside the City of Houston, and there will be no opportunity for local M/WBE participation.

Estimated spending authority:

DEPARTMENT	FY 2008	OUT YEARS	TOTAL
PW&E Fund 8300	\$486,752.00	\$1,750,549.00	\$2,237,301.00
PW&E Fund 8305	\$1,750,549.00	\$8,181,188.00	\$9,931,737.00
Grand Total	\$2,237,301.00	\$9,931,737.00	\$12,169,038.00

Buyer: Lewis Massingill



CITY OF HOUSTON

Public Works & Engineering Department

Interoffice

Correspondence

To: Marty Stein
Agenda Director

From: Director Public Works &
Engineering Department

Director Affirmative Action
Division

Date: August 28, 2007

Subject: Agenda Item #8 – Water Meters
and Water Meter Replacement
Parts

Item # 8 on this week's Council Agenda is an award to Badger Meter, Inc, HD Supply Waterworks, Aqua-Metric Sales Company and Macaulay Controls Company for water meters and water meter replacement parts. CM Garcia has requested information detailing why a 0% M/WBE goal was approved for this award.

Three of the winning bids were received from suppliers located outside of the State of Texas. HD Supply Waterworks is located in the city; however, the manufacturer's representative for the product supplied is located in San Antonio. These suppliers will drop ship their products by common carrier to the City of Houston. Since the scope of services does not include a local element, there is no local M/WBE opportunity available that could perform a commercially useful function for this commodity.

The Public Works Department is responsible for the repair and maintenance of the approximately 465,000 water meters currently active within the city. Additionally, approximately 15,000 meters are added to the system per year to service new development across the city. The proposed award is crucial in order for the department to provide water and utility service in a cost effective manner.

If you should have further questions regarding this award, please call Deputy Director, Susan Bandy C.P.A., of my staff at 713-837-0282.

Michael S. Marcotte, P.E., DEE
Director, Public Works & Engineering Department

Velma Laws
Director, Affirmative Action Division

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 7564

Subject: Ordinance amending contract between the City of Houston and Phoenix Business Consulting for professional programming services.

Category #
5

Page 1 of 2 Agenda Item

3419

FROM (Department or other point of origin):

Richard Lewis
Chief Information Officer
Information Technology

Origination Date

August 08, 2007

Agenda Date

SEP 05 2007
~~AUG 29 2007~~

DIRECTOR'S SIGNATURE

Richard Lewis

Council District(s) affected

For additional information contact:

Richard Lewis Phone: (832) 393-0065
Earl M. Lambert Phone: (832) 393-0038

Date and Identification of prior authorizing Council Action:

05-405 (4/27/05), 06-118 (2/1/06), 07-56 (1/10/07)

RECOMMENDATION: (Summary)

Approve an Ordinance amending a contract with Phoenix Business Consulting to extend the term and increase the maximum contract amount for professional SAP programming services.

Additional spending authority-3 years-\$2,250,000.00

F & A Budget

Michael McCall

Initial allocation: \$90,000.00-Fund 1007-ERP Special Non-Recurring Fund

SPECIFIC EXPLANATION:

Phoenix Business Consulting was chosen through a Request for Proposal process to develop the conversion and interface programs required to implement the new Enterprise Resource Planning System, also known as the Houston One Project (HOP). Over the past two years, Phoenix has been instrumental in the City's successful transition in both the phase one Material Management/Financial application and phase two Payroll application. Recently, the City issued the 100,000th check for services and goods procured for City operations. Also, over the past four months, the new Payroll application has generated nearly 200,000 payroll checks and pay advices.

The Houston One Project is providing a solid foundation for building new capabilities that can automate additional manual processes and transform the way the City works. Our ability to deliver successful, cost-effective projects will depend on our ability to engage skilled SAP programmers at highly competitive market rates. Candidate projects for the next phase include automation of some of the City's most complex processes, including Workers Compensation, personnel change documentation (201 Forms), permits and licenses, salary allocation, and tracking retiree health benefits plans.

The original contract with Phoenix was approved by Council on February 1, 2006, with a maximum contract amount of \$1,565,313. On January 10, 2007, Council approved an amendment to the contract, which increased the maximum contract amount by \$390,000 to cover costs associated with the extension of the schedule for the new Payroll application. Phoenix has consistently provided skilled SAP programmers at a significant discount to the rates negotiated with SAP. The proposed contract amendment will:

- 1) Maintain rates negotiated with Phoenix Business Consulting twenty months ago
- 2) Renew the contract for 3 years and provide the City with a renewal option for the fourth and fifth year of the contract
- 3) Provide clearer language regarding City ownership of intellectual properties
- 4) Encumber \$90,000 from the ERP Project Budget (Fund 1007-Special Non-Recurring Fund) to cover start up costs for planned projects and provide staffing to support ERP operations while the City fills an open position created by employee turnover
- 5) Increase the maximum contract amount to \$4,205,313 (an increase of \$2,250,000) and authorize supplemental allocations to be funded out of the Equipment Acquisition Fund or other funds appropriate to specific projects

REQUIRED AUTHORIZATION

NOT

F&A Director:

Other Authorization:

Other Authorization:

Date: 8/8/2007	Subject: Ordinance amending contract between the City of Houston and Phoenix Business Consulting for professional programming services.	Originator's Initials BC	Page 2 of 2
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M/WBE Participation

The original contract award included a 15% M/WBE participation goal. Phoenix's minority partner selected for the project was CVR Consulting. Phoenix has achieved a 14.5% participation level which is approximately 99% of the goal and is continuing its good faith efforts to achieve or exceed the contract goal.

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 7513

Subject: Approve an Ordinance Awarding a Contract to the Best Respondent for an Internet Traffic Accident Reports System for the Police Department

Category # 4 & 5

Page 1 of 2 Agenda Item

35 21

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Finance and Administration Department

Origination Date

August 09, 2007

Agenda Date

~~AUG 29 2007~~

SEP 05 2007

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected

All

For additional information contact:

Joseph Fenninger Phone: (713) 308-1708
Ray DuRousseau Phone: (713) 247-1735

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an ordinance awarding a contract to the best respondent, VectraReports.com, Inc. in an amount not to exceed \$70,000.00 for an Internet traffic accident reports system for the Police Department.

Maximum Contract Amount - \$70,000

F & A Budget

\$70,000.00 - General Fund (1000)

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve an ordinance awarding a three-year contract, with two one-year options to extend, for a total five-year term to the best respondent, VectraReports.com, Inc. in an amount not to exceed \$70,000.00 for an Internet traffic accident reports system for the Police Department (HPD). The City Purchasing Agent may terminate this contract at any time upon 30-days written notice to the contractor.

Currently, HPD officers prepare handwritten reports on all traffic accidents. These reports are then sent to the Department's Mobility Incident Management Division where a quality control action is performed. Hard copies of these reports are then sent to the Municipal Courts Administration Department and the Department of Public Safety where the information is scanned into their respective system. Finally, the Department's Mobility Management scans the original document into an image server which is accessed by the Department's Records Division and indexes the reports. Citizens are then required to personally appear at 1200 Travis to obtain a copy of the report at a cost of \$6.00 each.

The scope of work requires the contractor to provide all labor, equipment, supplies, supervision and maintenance to provide an online secure website to store traffic accident reports and make them accessible to the public. The contractor will be required to scan, process, index and store approximately 7,000 reports each month, varying from four to eight pages. These reports will then be made accessible to the citizens and insurance companies via a secured access website that will allow them to download and print a copy of a traffic accident report. The website will be available 24 hours a day, 7 days per week. Fees for reports are as follows:

- \$7.50 - Reports purchased through the vendor's website - either via the Internet or kiosk
- \$6.00 - Reports/certified copies purchased at the 1200 Travis location

Funds are being encumbered for the initial year of the contract as the Department will be required to pay \$1.75 for each report scanned and indexed by the contractor. Revenue produced from the sale of reports will fund subsequent contract years.

REQUIRED AUTHORIZATION

NOT

F&A Director:

Other Authorization:

Other Authorization:

Date: 8/9/2007	Subject: Approve an Ordinance Awarding a Contract to the Best Respondent for an Internet Traffic Accident Reports System for the Police Department	Originator's Initials FR	Page 2 of 2
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The Request for Proposal (RFP) was advertised and evaluated in accordance with the requirements of the State of Texas bid laws, and as a result, proposals were received from Docview, LLC, PoliceReports.US, LLC, DocuData Solutions, LLC and VectraReports.com, Inc. The evaluation committee consisted of HPD employees. The proposals were evaluated based on the following criteria:

1. Value of Services Proposed
2. Responsiveness to RFP Requirements
3. Ability to Meet the City's Requirements
4. M/WBE Participation

VectraReports.com, Inc. received the highest overall score of 506 points out of a possible 600 points.

M/WBE Subcontracting:

This RFP was issued as a goal-oriented contract with an 11% M/WBE participation level. VectraReports.com, Inc. has designated the below-named company as its certified M/WBE subcontractor.

<u>Name</u>	<u>Type of Work</u>	<u>Percentage</u>
Fortis Interactive, LLC	Computer Related Services	11%

The Affirmative Action Division will monitor this award.

Funding Information

Estimated Spending Authority

Department	FY 2008	Out Years	Total
Police	\$70,000.00	\$.00	\$70,000.00

Buyer: Frank Rodriguez

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Auctioneer Services Contract Hudson & Marshall of Texas, Inc.		Page 1 of 1	Agenda Item 23
FROM (Department or other point of origin): General Services Department		Origination Date 8/24/07	Agenda Date AUG 29 2007
DIRECTOR'S SIGNATURE: Issa Z. Dadoush, P.E. <i>Wandy Heggen</i>		Council District(s) affected: A, B, D, E, F, G, I	
For additional information contact: Jacquelyn L. Nisby 713-247-1814		Date and identification of prior authorizing Council action: SEP 05 2007	

36

RECOMMENDATION: Approve and authorize an Auctioneer Services Contract with Hudson & Marshall of Texas, Inc., and authorize the Mayor to execute and the City Secretary to attest Special Warranty Deeds conveying the properties.

Amount and Source Of Funding: NA

F&A Budget:

SPECIFIC EXPLANATION: The City proposes to sell at public auction 36 surplus City properties (see Attachment). The City will achieve time and dollar savings by using this method to dispose of the properties simultaneously and return them to the Harris County Appraisal District taxroll. The auction of real property is permissible under the Local Government Code §254.008, Sale of Real Property by Public Auction. Therefore, the General Services Department recommends that City Council approve and authorize a contract with Hudson & Marshall Texas, Inc. (Auctioneer) for auctioneer services related to a one-time disposition of surplus City property through the auction process.

SCOPE OF CONTRACT AND FEE: Under the terms of the contract, the Auctioneer will perform the following tasks:

- 1) Act as a clearing center for cooperating brokers to receive literature.
- 2) Answer questions regarding the auction.
- 3) Advertise the Auction through newspapers and direct mail.
- 4) Contact closing agent, receive title commitments and coordinate the closings of all sales.

The Auctioneer will charge a 10% buyers premium on each property as compensation, or a minimum commission of \$1,250 per property. In addition, the City agrees to reimburse the Auctioneer for advertising expenses, up to \$17,500 from the proceeds of the sale.

IZD:BC:JLN:JES:ddc

xc: Marty Stein, Jacquelyn L. Nisby, Anna Russell

REQUIRED AUTHORIZATION

CUIC ID# 25 JES 07

<p>General Services Department:</p> <p><i>Forest R. Christy, Jr.</i></p> <p>Forest R. Christy, Jr., Director Real Estate Division</p>	<p>Public Works & Engineering Department:</p> <p><i>Michael S. Marcotte</i></p> <p>Michael S. Marcotte, P.E., DEE Director</p>
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2007 Surplus Property Auction

	PARCEL	ADDRESS	SALES ATTEMPTS	Land Size	Council District	Opening Bid
1	S78 027	Kingspoint near Aldis	1	7,151 sq. ft.	E	\$8,581.00
2	S83-058	Garland at Vanderman	5	9,993 sq. ft.	I	\$39,992.00
3	S83 087	7302 Miley St	4	9,100 sq. ft.	B	\$7,280.00
4	S84 084	9322 Crestview Drive	4	16,117 sq. ft.	B	\$12,894.00
5	S84 088	2900 Briarwick Lane	4	7,650 sq. ft.	B	\$13,000.00
6	S84 091	11322 Leitrim Way	4	12,544 sq. ft.	D	\$15,680.00
7	S85 005	10103 Torrington Lane	5	23,519 sq. ft.	E	\$33,448.00
8	S85 036	12524 Mandalay Bay	3	11,434 sq. ft.	D	\$14,864.00
9	S85 047	10305 Roandale	3	7,289 sq. ft.	D	\$9,111.00
10	S85 048	9301 Merle Street	5	53,260 sq. ft.	D	\$53,973.00
11	S85 052	N. Wayside/ St. Louis	2	7,403 sq. ft.	B	\$9,254.00
12	S85 074	N. Wayside/ Boy	2	15,807 sq. ft.	B	\$19,759.00
13	S87 009	6502 Grape Street	3	7,000 sq. ft.	F	\$31,500.00
14	S88 024	5339 Greylog	4	0.355 acre	D	\$24,110.00
15	S95 051	11808 Teaneck Drive	1	1.2737 acres	E	\$45,850.00
16	S95 052	3703 Southlawn	3	38,175 sq. ft.	D	\$64,897.00
17	S95 055	3830 Tiffany	2	29,185 sq. ft.	D	\$43,698.00
18	S95 060	8314 Parkhurst Drive	2	9,900 sq. ft.	B	\$12,632.00
19	S96 013	5634 Arthington St	3	16,800 sq. ft.	D	\$42,000.00
20	SY3 014	5815 Leedale Rd	2	65,899.68 sq. ft.	B	\$75,445.00
21	SY3 015	Park 10 Utility District	3	2.5 acres	A	\$293,719.00
22	SY5 065	3600 Block Southlawn	1	5,000 sq. ft.	D	\$7,050.00
23	SY5 066	3600 Block Faulkner	1	5,000 sq. ft.	D	\$7,050.00
24	SY6 038	11239 Dalebrook Drive	3	16,406 sq. ft.	B	\$27,890.00
25	SY6 039	11503 Rowan Lane	3	25,095 sq. ft.	F	\$68,750.00
26	SY6 041	13003 Northborough Dr	1	19,515 sq. ft.	B	\$14,628.00
27	SY6 043	14000 Overbrook Ln	4	40,018 sq. ft.	G	\$80,000.00
28	SY6 046	3156 Crane St	5	55,824 sq. ft.	B	\$52,220.00
29	SY6 049	3900 Block Sardis	2	29,372 sq. ft.	A	\$35,248.00
30	SY6 054	7534 Touchstone	1	8,260 sq. ft.	B	\$9,025.00
31	S95-063	7114 Dorsetshire	1	4,761sq. ft.	A	\$9,900.00
32	SY6-104	3600 Block Beulah St.	0	5,000 sq. ft.	D	\$45,000.00
33	S84-072	10106 Ashville	0	6,094 sq. ft.	D	\$10,360.00
34	SY5-056	Park Place at Juniper	0	75,285 sq. ft.	I	\$150,450.00
35	SY7-043	8200 Block of Parkhurst	0	22,343 sq. ft.	B	\$24,700.00
36	SY7-002	Culing @ Bingle	0	27,445 sq.ft.	A	\$83,707.00

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 7025

Subject: Approve an Amending Ordinance to Increase the Spending Authority for Contract No. C56426 for Taser Devices and Associated Equipment for the Houston Police Department
LC-N-4645-039-20460-A1

Category #
4

Page 1 of 1

Agenda Item

3725

FROM (Department or other point of origin):

Calvin D. Wells
City Purchasing Agent
Finance and Administration Department

Origination Date

July 18, 2007

Agenda Date

SEP 05 2007
~~AUG 29 2007~~

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected
All

For additional information contact:

Joseph Fenninger Phone: (713) 308-1708
Ray DuRousseau Phone: (713) 247-1735

Date and Identification of prior authorizing Council Action:

Ord. #2004-1130, Passed November 3, 2004

RECOMMENDATION: (Summary)

Approve an amending ordinance to increase the spending authority between the City of Houston and GT Distributors, Inc. and Taser International, Inc. from \$4,679,855.55 to \$6,551,797.77 for taser devices and associated equipment for the Houston Police Department.

Award Amount: \$1,871,942.22

F & A Budget

\$1,871,942.22 General Fund (1000)

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve an amending ordinance to increase the spending authority between the City of Houston, and GT Distributors, Inc. and Taser International, Inc. from \$4,679,855.55 to \$6,551,797.77 for taser devices and associated equipment for the Houston Police Department.

This contract was awarded by City Council on November 3, 2004, by Ordinance No. 2004-1130 for a five-year term in an amount not to exceed \$4,679,855.55. The additional spending authority will allow the Department to continue to purchase taser devices and associated supplies and services through the end of the contract term. The City Purchasing Agent may terminate this contract at any time upon 30-day written notice to the contractor.

Under this contract, the Department may purchase Taser model X26E devices, including any upgrades, with holders, air cartridges and simulation air cartridges throughout the term of the contract. The contractor will provide a five-year warranty for each device. This purchase will also include the cartridges and software needed to activate the devices. The price includes training darts and other equipment.

GT Distributors, Inc. is the regional supplier for Taser International, Inc. The Equipment will be manufactured and drop shipped directly to the Houston Police Department. Because there is no M/WBE potential, and the Affirmative Action Division approved a 0% goal for the procurement.

This recommendation is made pursuant to Chapter 252, Section 252.022 (a) (2) of the Texas Local Government Code for exempted procurements.

Buyer: Richard Morris

REQUIRED AUTHORIZATION

NDT

F&A Director:

Other Authorization:

Other Authorization:

Conducted Energy Devices (Brand name: TASER)

In December 2004, the Houston Police Department purchased and began issuing less-lethal technology known as Conducted Energy Devices (CED) model (X-26). These devices are commonly referred to as Tasers because of the manufacturer Taser International. The initial decision was made to equip all uniformed first responders with the devices. Uniformed first responders include Patrol, Special Operations, Marshals, Mobility, Motorcycle, Airport and SWAT officers. At this time, the department has issued 3,789 devices to the listed personnel.

Purpose of Less-Lethal CEDs

- Assist officers in securing and controlling combative individuals
- Reduce injuries to officers and suspects
- Reduce financial impact of civil liability in use of force incidents
- In limited situations, provide an alternative to deadly force

The CED has proven to be an effective tool in reducing injuries to officers and suspects. The device has also proven to be valuable in providing options in limited deadly force situations. For the aforementioned reasons, a management decision was made to issue some devices to a limited number of non-uniformed personnel assigned to the Major Offenders and Narcotics Divisions. These specific divisions engaged in frequent high-risk felony warrant executions.

From December 3, 2004, to July 31, 2007, officers in the Houston Police Department have deployed this device 1,332 times. During this period, (3) officers have received serious injuries during taser events. During the same time period, no suspects have been seriously injured due to the CED.

Workers Compensation Cost to Department as a Result of Physical Confrontations

- Year 2003 (2,233,479.00 dollars)
- Year 2004 (1,563,661.00 dollars)
- Year 2005 (1,152,195.00 dollars)
- Year 2006 (738,028.00 dollars)
- January 2007 to June 30, 2007 (98,716.00 dollars)
- CED implemented December 2004

Since December 2004, a management decision was made to issue all cadets a CED upon graduation from the academy. Furthermore, the long-term goal is to issue all classified personnel in the department a CED. Personnel who are currently not issued a CED still perform police functions in uniform and are subjected to taking official police action. When officers are injured, workers' compensation and civil liability issues are common.

Justification to Purchase Additional Devices and Supplies

- Graduated from FY05 through FY07, 624 new cadets
- Projected for FY08, 365 new cadets
- Cartridges and supplies required for annual certification
- Cartridges and supplies for training and operational deployment
- Required number of CED in inventory to cover normal repairs
- An issued CED will remain assigned to an officer until retirement, regardless of assignment

Department CED Current Inventory

- To date total CED purchases (4,227 devices)
- Total CED issued (3,789)
- CED lost and/or stolen or held in property room for evidence (28)
- CED out of service for repair (109)
- CED in reserve (301)
- Minimum reserve inventory needed at all times (200)
- Average number of repairs to CED monthly (90)
- Cartridges in inventory (1,250)
- Average cartridge use (165) per month

Additional Information Requested

- How many CED will be required for cadets? (20 classes of 70 cadets through FY09, 1400 total)
- How many CED will be used for replacements? (None, all CED under warranty)
- What is the life expectancy of a CED? (5 year warranty, but life expectancy unknown)
- What number of officers will be receiving new CED? (All new hires, all classified officers assigned to uniformed patrol divisions and limited non-uniformed divisions)
- Where will CED be stored? (Training Division)
- What other equipment will be provided with a CED? (2 cartridges per new CED)
- Are holsters included in the purchase? (Yes)
- What is the average cost of a CED? (\$935.67 for each CED, holster and extended warranty)

<p>SUBJECT: Interlocal Cost Sharing Contract between City of Houston and Harris County Municipal Utility District No. 410 for the construction of water, sanitary sewer and storm sewer lines. S-000800-0107-4/ R-000800-0107-4/ M-000800-0107-4</p>	<p>Page 1 of 2</p>	<p>Agenda Item #</p>
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3830

<p>FROM: (Department or other point of origin) Department of Public Works & Engineering</p>	<p>Origination Date: 8-17-07</p>	<p>Agenda Date: AUG 29 2007 SEP 05 2007</p>
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<p>Director's Signature: <i>Michael S. Marcotte</i> Michael S. Marcotte, P.E. DEE</p>	<p>Council District affected: E</p>
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<p>For additional information contact: Jun Chang, P.E. (713) 837-0433</p>	<p>Date and identification of prior authorizing Council action: Ordinance #: 05-0198 Dated: 3/9/05</p>
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Recommendation: (Summary)
Approve an Interlocal Cost Sharing Contract between the City and Harris County Municipal Utility District No. 410 and appropriate funds.

<p>Amount & Source of Funding:</p> <table> <tr> <td>\$200,851.00</td> <td>Water & Sewer System Consolidated Construction Fund No. 8500</td> </tr> <tr> <td><u>\$171,000.00</u></td> <td>Drainage Improvement CPaper Series F Fund No. 4030</td> </tr> <tr> <td>\$371,851.00</td> <td>Total Appropriation</td> </tr> </table>	\$200,851.00	Water & Sewer System Consolidated Construction Fund No. 8500	<u>\$171,000.00</u>	Drainage Improvement CPaper Series F Fund No. 4030	\$371,851.00	Total Appropriation	<p><i>Vote</i> 07/27/07</p>
\$200,851.00	Water & Sewer System Consolidated Construction Fund No. 8500						
<u>\$171,000.00</u>	Drainage Improvement CPaper Series F Fund No. 4030						
\$371,851.00	Total Appropriation						

Specific Explanation:
The City and Harris County Municipal Utility District No. 410 (MUD 410), an in-City municipal utility district, entered into the Utility Functions and Services Allocation Agreement on March 9, 2005. Under the Utility Functions and Services Allocation Agreement, MUD 410 will construct water, sewer and storm water facilities and dedicate these facilities to the City. The population of MUD 410 will be retail water and sewer customers of the City. MUD 410 will be reimbursed for part of its costs for construction through an interlocal agreement that is substantially the same as the City's developer participation contract. Under the Interlocal Agreement with the City, the District will design and construct the mains necessary to serve the development (water and wastewater) and dedicate them to the City in exchange for 70% reimbursement of the construction cost and 100% of the design cost. The Interlocal Agreement also provides for the City to reimburse the District 100% of the cost to design and construct storm water mains and appurtenances, up to a maximum of \$3,000.00 per lot, if the homes qualify as affordable housing (sell for less than the median price of a house in Houston). The Interlocal Agreement further allows the City to pay interest costs incurred by the District. The District will be reimbursed after 25% of the residences have been built. The district has eighteen (18) months from the date of the contract to begin construction and three (3) years from the beginning of construction to complete the number of houses necessary for reimbursement.

Harris County Municipal Utility District No. 410 proposes to construct approximately 1,792 linear feet of water line, 2,337 linear feet of sanitary sewer line and 567 linear feet of storm sewer line to serve the 57-lot subdivision, Clearview Village Section 6. The maximum amounts to be reimbursed are as follows:

REQUIRED AUTHORIZATION: 20JZC298

<p>F&A Budget: <i>Michael</i> <i>SL</i></p>	<p>Other Authorization:</p>	<p>Other Authorization: <i>Andrew F. Icken</i> Andrew F. Icken, Deputy Director Planning & Development Services</p>
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SUBJECT: Interlocal Cost Sharing Contract between City of Houston and Harris County Municipal Utility District No. 410 for the construction of water, sanitary sewer and storm sewer lines.

**Originator's
Initials**

**Page
2 of 2**

Water

70% of construction cost (including interest & 5% contingency):	\$64,460.00
design cost:	<u>\$9,210.00</u>
total:	\$73,670.00

Wastewater

70% of construction cost (including interest & 5% contingency):	\$111,281.00
design cost:	<u>\$15,900.00</u>
total:	\$127,181.00

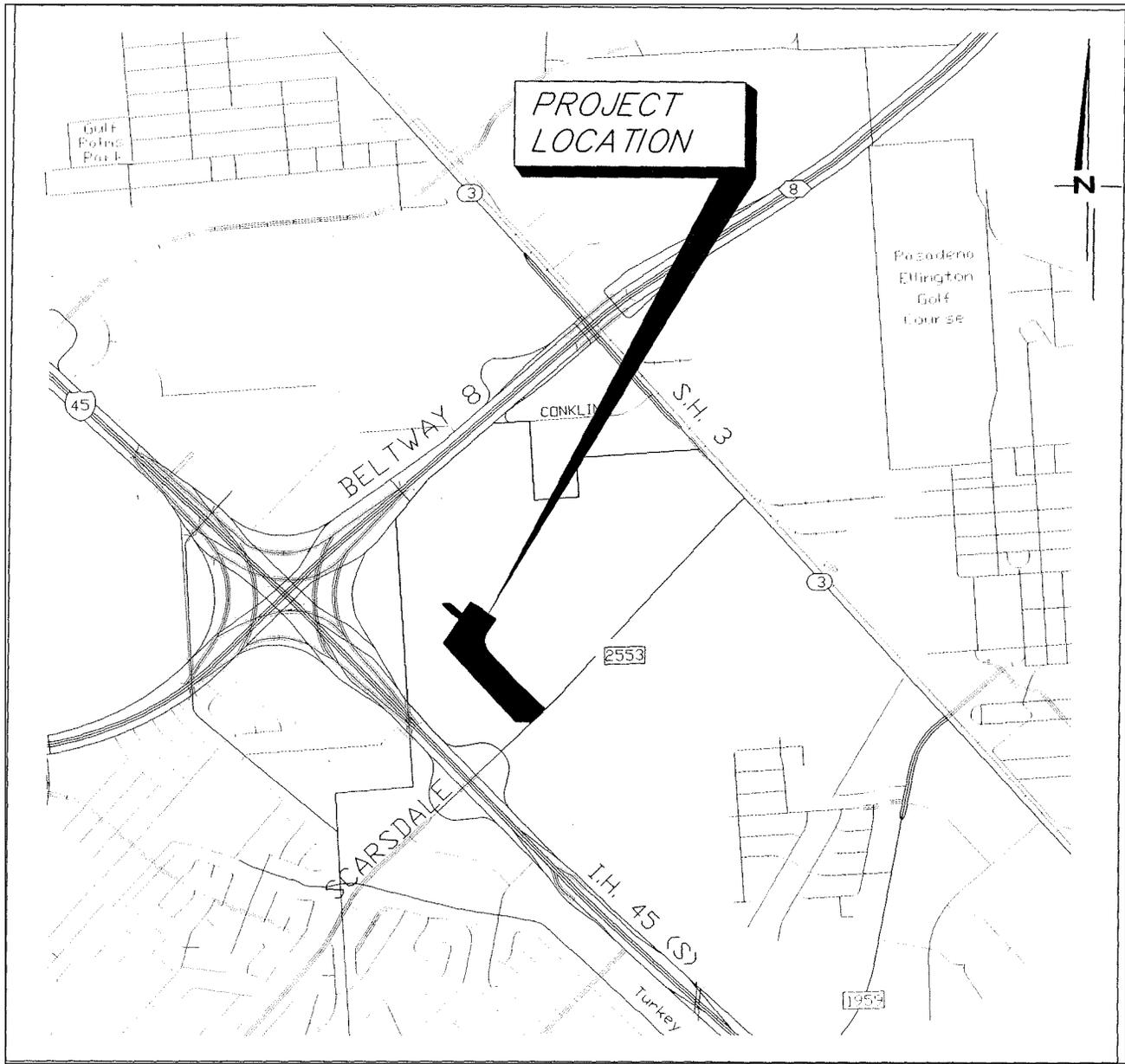
Storm Sewer (Including appropriate detention)

100% of construction cost (including interest & 5% contingency):	\$145,350.00
design cost:	<u>\$25,650.00</u>
total:	\$171,000.00

Upon approval of this agreement, MUD 410 will proceed with preparation of construction drawings and specifications for the project. The project will then be advertised by MUD 410 in accordance with state bid laws. The Department of Public Works and Engineering will inspect the construction of the mains and review the final construction cost to determine the actual amount of the City's share.

AFI:JC:MAS:tp

c: Marty Stein
Craig Foster
John Sakolosky



**CLEARVIEW VILLAGE SEC. 6
VICINITY MAP
N.T.S.**