



**TEXAS
SURETY
FEDERATION**

September 28, 2004

Honorable Bill White
Mayor
City of Houston
P. O. Box 1562
Houston, TX. 77251

Michael S. Marcotte
Director
Public Works & Engineering
City of Houston
P. O. Box 1562
Houston, TX. 77251

Re: Proposed City of Houston Performance & Payment Bonds

Dear Mayor White and Mr. Marcotte:

The Texas Surety Federation is a trade and advocacy association of surety companies and surety agents doing business in the State of Texas. Although no hard data exists, we estimate that 80% of all surety bonds provided to the City of Houston are provided through our members.

We understand the City has been engaged in a process to review the bond forms used in guaranteeing City contracts. We are told that you are doing so in response to what you consider unsatisfactory claim situations with some of the surety companies who have written bonds in favor of the City.

For many years the City has required one of the most onerous bond forms in use by any public owner in the State. These bond forms have not produced the results you wanted and now, you are planning to use an even more onerous set of bond forms. Those forms will not produce the results you seek either.

Bond forms will not create satisfactory surety claim situations. Good communications, fair terms, intelligent dispute avoidance/resolution and adherence to contract terms are more likely to produce the results you seek.

The City's bond forms expose the surety companies to unnecessary risks. Yet, they give you no real additional coverage. History should have already proven to you that overbearing bond forms do not cause the results you desire.

The Voice of the Texas Surety Industry

Post Office Box 164077
Austin, Texas 78716-4077

The real losers in this situation are not the surety companies. The real losers are the taxpayers of the City of Houston. By unnecessarily increasing the risk to sureties, you are eliminating contracting firms which are otherwise imminently qualified to perform your contracts. Bad bond forms cause the City to miss out on firms that might often lower the prices the City pays. This is a direct result of the more rigorous underwriting required to obtain bonds for City of Houston contracts.

One might argue that the City only wants the best of the available contractors. That may be true, but it comes with added costs to the taxpayer.

It appears you have ignored all possibilities that the City might have shared fault in these past unsatisfactory claim situations. You are attempting to solve the problem with forms that will not produce different results. Allow us to admit fault where it is due and offer suggestions that will help you in the future.

Please give the surety industry a chance to tell you how we can help you, your contractors and the taxpayers of the City of Houston. Allow us an opportunity to have a team of our local members meet with those of the Public Works Department who have, first hand, experienced problems with surety companies

We are looking for the opportunity to make a difference in city services, the costs of public work projects, and the promotion of a healthy construction community within the City of Houston. Please allow the users and the providers of the bonds to have some meaningful, sincere dialogue rather than solving the perceived problems with unnecessarily burdensome bond forms. From that process, we will help you draft bond forms that will allow you to achieve the results you desire.

We look forward to hearing from you.

Sincerely,

Bill King
President
Texas Surety Federation

Cc: Members of the Texas Surety Federation
Surety Association of Houston
Houston Chapter, Associated General Contractors
Houston Contractors Association
Associated Builders & Contractors of Greater Houston
Association of Minority Contractors of Houston
Houston Chapter, Hispanic Contractors Association