

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

SUBJECT: An Ordinance approving and authorizing the execution of a Compromise and Settlement Agreement (the <i>Agreement</i>) between Conrad Construction Co., Ltd. and the City of Houston to settle a lawsuit, and approving and authorizing the sum of \$82,500.00 out of the 4040-METRO Projects Construction DDSRF for the purpose of funding this Agreement.	Category #	Page 1 of 1	Agenda Item #
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FROM: (Department or other point of origin):

Legal Department

Origination Date**Agenda Date****DIRECTOR'S SIGNATURE:**

Ronald C. Lewis, City Attorney

Council Districts affected:

All

For additional information contact:Brian A. Amis,
Sr. Assistant City Attorney**Phone:** 832.393.6464**Date and identification of prior
authorizing Council Action:****RECOMMENDATION: (Summary)**

That Council adopts an ordinance approving and authorizing the execution of a Compromise and Settlement Agreement (the *Agreement*) between Conrad Construction Co., Ltd. and the City of Houston to settle a lawsuit, and approving and authorizing the sum of \$82,500.00 out of the 4040-METRO Projects Construction DDSRF for the purpose of funding this Agreement.

AMOUNT AND SOURCE OF FUNDING:

\$82,500.00-4040-METRO Projects Construction DDSRF

Budget:**SPECIFIC EXPLANATION:****FOR SETTLEMENT PURPOSES ONLY**

This request relates to the resolution of a construction/breach of contract lawsuit through settlement. Pursuant to Tex. Loc. Gov't. Code Chapter 271, the City entered into a contract (the Contract) with Conrad Construction Co., Inc. (Conrad) for a construction and rehabilitation project known as West Little York Paving from T.C. Jester to Albanson/Deep Forest, WBS No. N-000687-0003-4. Conrad's contractual obligations included the demolition and reconstruction of a bridge over White Oak Bayou (the Project). In performing the work, Conrad claimed to encounter changed conditions from those represented in the Contract drawings and specifications, including the amount of sediment at the bottom of White Oak Bayou. In addition, Conrad claimed that the Contract drawings misrepresented the depth and angle of the slope paving, requiring Conrad to conduct extensive additional excavation work to complete the Project. Conrad claims to have done \$146,636.00 in additional work as a result of changes conditions and inaccurate drawings.

The City declined to pay Conrad any additional sums and Conrad filed suit against the City: Cause No. 2015-17269; *Conrad Construction Co., Ltd. v. City of Houston*; in the 133rd Judicial District Court of Harris County, Texas. Conrad initially demanded the entire \$146,636.00 to settle this case. The parties conducted discovery and the case was unsuccessfully mediated. However, the mediator thereafter made a written proposal that the case should be settled for \$82,500 in exchange for a full release of all claims. The parties agreed to this settlement subject to City Council approval.

After a thorough review, the Legal Department recommends that this lawsuit be settled for \$82,500 and that Council approve the Compromise and Settlement Agreement and issuance of a warrant payable as follows: \$82,500.00 to Conrad Construction Co., Ltd.

REQUIRED AUTHORIZATION**Finance Director:****Other Authorization:****Other Authorization:**