

Minutes of December 19, 2006
Mayor and Board of Aldermen

Be it remembered that a regular meeting of the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, was begun and held at the Long Beach School District Central Office, 19148 Commission Road, in said City at 5:30 p.m. it being the third Tuesday in December, 2006, and the same being the time, date and place fixed by Laws of Mississippi and Ordinance of the City of Long Beach for holding said meeting.

There were present and in attendance on said Board and at the meeting the following named persons: Mayor William Skellie, Jr., Aldermen Allen D. Holder, Jr., Charles Boggs, Richard Notter, Richard Burton, Joseph McNary, Mark Lishen, Richard Bennett, City Clerk Rebecca E. Schruuff and City Attorney Frank R. McCreary, III.

There being a quorum present sufficient to transact the business of the City, the following proceedings were had and done.

The meeting was called to order and the Clerk reported that pursuant to that certain order of the Mayor and Board of Aldermen at a regular meeting duly held and convened on November 7, 2006, that she did cause to be published in The Clarion-Ledger, Hinds County, Mississippi, and The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, Legal Notice, Advertisement for Bids, "KATRINA WATER & SEWER REPLACEMENT PHASE 3, U.S. HIGHWAY 90-NICHOLSON AVENUE TO EASTERN CITY LIMITS", as evidenced by the Publisher's Proof of Publication.

Alderman Notter made motion seconded by Alderman Holder and unanimously carried to spread said Proofs of Publication upon the minutes of this meeting in words and figures, as follows:

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

PROOF OF PUBLICATION

ADVERTISEMENT FOR BIDS
 City of Long Beach, Mississippi
 The City of Long Beach, Mississippi, will receive bids for KATRINA WATER & SEWER REPLACEMENT PHASE 3, U.S. HIGHWAY 90 - NICHOLSON AVENUE TO EASTERN CITY LIMITS at the Office of the City Clerk, Temporary City Hall on Klondyke Road, Long Beach, Mississippi, during normal office hours at any time prior to the designated bid date, or at the temporary meeting place at Long Beach School District Office on Commission Road at 5:30 PM on the designated date for the bid opening. Bids will be publicly opened and read aloud at the regular meeting of the Board of Aldermen at 5:30 P.M., December 19, 2006. Bids are invited for the furnishing of materials, labor and equipment to install new replacement water and sewer mains and appurtenances within a portion of the City of Long Beach which was devastated by Hurricane Katrina. The project is basically adjacent to U.S. Highway 90 and intersecting city streets. Contract Documents, including Drawings and Technical Specifications, are on file at the Office of City Clerk, at City Hall, Long Beach, Mississippi. Plans and Specifications may be obtained at the office of A. Garner Russell & Associates, Inc., Consulting Engineers, Hewes Avenue at 33rd Street (Post Office Box 1677), Gulfport, Mississippi 39507, upon payment of \$100.00 non-refundable fee. A certified check or bank draft payable to the order of City of Long Beach, Mississippi, negotiable U.S. Government bonds (at par value), or a satisfactory Bid Bond, executed by the Bidder and an acceptable surety, in an amount equal to five percent (5%) of the total bid for City of Long Beach, KATRINA WATER & SEWER REPLACEMENT PHASE 3, U.S. HIGHWAY 90 - NICHOLSON AVENUE TO EASTERN CITY LIMITS, shall be submitted with each bid. For bids exceeding \$50,000 Bidder must indicate his Certificate of Responsibility Number on outside of sealed proposal, as required by Mississippi Law. For bids not exceeding \$50,000, Bidder must either indicate his Certificate Number, or else write clearly "Bid does not exceed \$50,000." The City of Long Beach, Mississippi, reserves the right to reject any or all bids or to waive any informalties in the bidding. Bids may be held by the City of Long Beach, Mississippi, for a period not to exceed sixty (60) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of Bidders, prior to awarding of the Contract. Done by order of the Mayor and Board of Aldermen, November 7, 2006.
 City of Long Beach, Mississippi
 By: S/REBECCA SCHRUFF
 Title CITY CLERK
 R37,adv13,20,2Mon
 1106888

STATE OF MISSISSIPPI
 COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Ashtley Bearfield who, being by me first duly sworn, did depose and say that she is a clerk of The Sun Herald, a newspaper published in the city of Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 2 times in the following numbers and on the following dates of such paper, viz:

- Vol. 123 No., 41 dated 13 day of November, 20 06
 Vol. 123 No., 48 dated 20 day of November, 20 06
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____
 Vol. _____ No., _____ dated _____ day of _____, 20 _____

Affiant further states on oath that said newspaper has been established and published continuously in said country for a period of more than twelve months next prior to the first publication of said notice.

Ashtley Bearfield
 Clerk

Sworn to and subscribed before me this 22 day of November, A.D., 20 06

Karen Shook
 Notary Public

Printer's Fee \$ 95.70
 Furnishing proof of publication \$ 3.00
 TOTAL 98.70

Minutes of December 19, 2006
Mayor and Board of Aldermen

Proof of Publication

The State of Mississippi

Hinds County

PASTE PROOF HERE

PERSONALLY appeared before me, the undersigned
notary public in and for Hinds County, Mississippi,

Lisa Massey

an authorized clerk of THE CLARION-LEDGER,
a daily newspaper as defined and prescribed in
Sections 13-3-31 and 13-3-32 of the Mississippi Code
of 1972, as amended, who, being duly sworn, states
that the notice, a true copy of which is hereto
attached, appeared in the issues of said newspaper
as follows:

Dates of Publication:

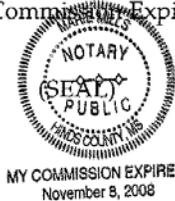
Lines: 144
Words: 460
Issues: 1
Total: \$58.70
Tuesday, November 14, 2006

Signed


Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me on
11/14/2006


Notary Public
My Commission Expires: 11/08/2008



ADVERTISEMENT FOR BIDS
City of Long Beach, Mississippi

The City of Long Beach, Mississippi, will receive bids for:
KATRINA WATER & SEWER REPLACEMENT PHASE 3
U.S. HIGHWAY 90 -
NICHOLSON AVENUE TO EASTERN CITY LIMITS

at the Office of the City Clerk, Temporary City Hall on
Klanbyke Road, Long Beach, Mississippi, during normal
office hours at any time prior to the designated bid date, or at
the temporary meeting place at Long Beach School District
Office on Commission Road at 5:30 PM on the designated
date for the bid opening. Bids will be publicly opened and
read aloud at the regular meeting of the Board of Aldermen at
5:30 P.M.,
December 19, 2006.

Bids are invited for the furnishing of materials, labor and
equipment to install new replacement water and sewer mains
and appurtenances within a portion of the City of Long Beach
which was devastated by Hurricane Katrina. The project is
basically adjacent to U.S. Highway 90 and intersecting city
streets.

Contract Documents, including Drawings and Technical
Specifications, are on file at the Office of City Clerk, at City
Hall, Long Beach, Mississippi.

Plans and Specifications may be obtained at the office of A
Garner Russell & Associates, Inc., Consulting Engineers,
Hewes Avenue at 33rd Street (Post Office Box 1677),
Gulfport, Mississippi 39507, upon payment of \$100.00
non-refundable fee.

A certified check or bank draft payable to the order of City of
Long Beach, Mississippi, negotiable U.S. Government bonds
(at par value), or a satisfactory Bid Bond executed by the
Bidder and an acceptable surety, in an amount equal to five
percent (5%) of the total bid for City of Long Beach,
KATRINA WATER & SEWER REPLACEMENT PHASE 3,
U.S. HIGHWAY 90 - NICHOLSON AVENUE TO EASTERN
CITY LIMITS, shall be submitted with each bid.

For bids exceeding \$50,000 Bidder must indicate his
Certificate of Responsibility Number on outside of sealed
proposal as required by Mississippi Law. For bids not
exceeding \$50,000, Bidder must either indicate his Certificate
Number, or else write clearly "Bid does not exceed \$50,000."

The City of Long Beach, Mississippi, reserves the right to
reject any or all bids or to waive any informalities in the
bidding.

Bids may be held by the City of Long Beach, Mississippi, for
a period not to exceed sixty (60) days from the date of the
opening of bids for the purpose of reviewing the bids and
investigating the qualifications of Bidders, prior to awarding of
the Contract.

Done by order of the Mayor and Board of Aldermen
November 7, 2006.

City of Long Beach, Mississippi
By: REBECCA SCHRUFF
Title: CITY CLERK

November 14, 2006

The Clerk further reported that six (6) bids were properly filed, whereupon, said
bids were then and there publicly opened and read aloud, as follows:

Magnolia Construction Company LLC
Certificate of Responsibility 0188
2654 Mission Drive
Baton Rouge, LA
Bid Amount: \$1,843,664.00

Kappa Development & General Contracting, Inc.
Certificate of Responsibility 11582
10480 Reichold Road
Gulfport, MS 39505

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Bid Amount: \$ 1,591,235.00

Necaise Brothers Construction Company, Inc.
Certificate of Responsibility 05004
21040 Coastal Parkway
Gulfport, MS 39503
Bid Amount: \$2,119,320.14

Hemphill Construction Company, Inc.
Certificate of Responsibility 2449
P.O. Drawer 879
Florence, MS 39073
Bid Amount: \$ 1,670,774.00

SCI, Inc.
Certificate of Responsibility 04939
10200 Logan Cline Road
Gulfport, MS 39503
Bid Amount: \$ 1,891,447.75

Onyx, Inc.
Certificate of Responsibility 15754
1240 Powder Plant Rd SW
Bessemer, AL 35022
Bid Amount: \$1,450,221.25

Upon discussion, Alderman Holder made motion seconded by Alderman Notter and unanimously carried to take the aforementioned bids under advisement for review and tabulation by the City Engineer with a recommendation at the next regular meeting.

The Clerk reported that pursuant to that certain order of the Mayor and Board of Aldermen at a regular meeting duly held and convened on November 7, 2006, that she did cause to be published in The Clarion-Ledger, Hinds County, Mississippi, and The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, Legal Notice, Advertisement for Bids, 'DRAINAGE DITCH RECONDITIONING', as evidenced by the Publisher's Proof of Publication.

Alderman Holder made motion seconded by Alderman McNary and unanimously carried to spread said Proofs of Publication upon the minutes of this meeting in words and figures, as follows:

Minutes of December 19, 2006
 Mayor and Board of Aldermen

PROOF OF PUBLICATION

ADVERTISEMENT FOR BIDS
 City of Long Beach, Mississippi
 The City of Long Beach, Mississippi, will receive bids for DRAINAGE DITCH RECONDITIONING at the Office of the City Clerk, Temporary City Hall on Klondyke Road, Long Beach, Mississippi, during normal office hours at any time prior to the designated bid date, or at the temporary meeting place at Long Beach School District Office on Commission Road at 5:30 PM on the designated date for the bid opening. Bids will be publicly opened and read aloud at the regular meeting of the Board of Aldermen at 5:30 P.M., December 19, 2006. Bids are invited for the furnishing of materials, labor and equipment to perform the repair and restoration of designated drainage ditches, roadside and easement, within the City of Long Beach. Contract Documents, including Drawings and Technical Specifications, are on file at the Office of City Clerk, at City Hall, Long Beach, Mississippi. Plans and Specifications may be obtained at the office of A. Garner Russell & Associates, Inc., Consulting Engineers, Hewes Avenue at 33rd Street (Post Office Box 1677), Gulfport, Mississippi 39507, upon payment of \$50.00 non-refundable fee. A certified check or bank draft payable to the order of City of Long Beach, Mississippi, negotiable U. S. Government bonds (at par value), or a satisfactory bid bond executed by the Bidder and an acceptable surety, in an amount equal to five percent (5%) of the total bid for City of Long Beach, DRAINAGE DITCH RECONDITIONING, shall be submitted with each bid. For bids exceeding \$50,000 Bidder must indicate his Certificate of Responsibility Number on outside of sealed proposal as required by Mississippi Law. For bids not exceeding \$50,000, Bidder must either indicate his Certificate Number, or else write clearly "I do not exceed \$50,000." The City of Long Beach, Mississippi, reserves the right to reject any or all bids or to waive any informalities in the bidding. Bids may be held by the City of Long Beach, Mississippi, for a period not to exceed sixty (60) days from the date of the opening of bids for the purpose of reexamining the bids and investigating the qualifications of Bidders, prior to awarding of the Contract. Done by order of the Mayor and Board of Aldermen, November 7, 2006.
 City of Long Beach, Mississippi
 By S/REBECCA SCHRUFF
 Title CITY CLERK
 HBB, Adv 13, 20, Mon
 1108901

STATE OF MISSISSIPPI
 COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Ashley Bearfield who, being by me first duly sworn, did depose and say that she is a clerk of The Sun Herald, a newspaper published in the city of Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 2 times in the following numbers and on the following dates of such paper, viz:

- Vol. 123 No. 41 dated 13 day of November, 2006
- Vol. 123 No. 48 dated 20 day of November, 2006
- Vol. _____ No. _____ dated _____ day of _____, 20 _____
- Vol. _____ No. _____ dated _____ day of _____, 20 _____
- Vol. _____ No. _____ dated _____ day of _____, 20 _____
- Vol. _____ No. _____ dated _____ day of _____, 20 _____
- Vol. _____ No. _____ dated _____ day of _____, 20 _____
- Vol. _____ No. _____ dated _____ day of _____, 20 _____

Affiant further states on oath that said newspaper has been established and published continuously in said country for a period of more than twelve months next prior to the first publication of said notice.

[Signature]
 Clerk

Sworn to and subscribed before me this 22 day of November, A.D., 2006

[Signature]
 Notary Public

Printer's Fee \$ 88.36
 Furnishing proof of publication \$ 3.00
 TOTAL 88.36

Minutes of December 19, 2006
Mayor and Board of Aldermen

Proof of Publication

The State of Mississippi

Hinds County

PASTE PROOF HERE

ADVERTISEMENT FOR BIDS
City of Long Beach, Mississippi
The City of Long Beach, Mississippi, will receive bids for:
DRAINAGE DITCH RECONDITIONING
at the Office of the City Clerk, Temporary City Hall on Klondyke Road, Long Beach, Mississippi, during normal office hours at any time prior to the designated bid date, or at the temporary meeting place at Long Beach School District Office on Commission Road at 5:30 PM on the designated date for the bid opening. Bids will be publicly opened and read aloud at the regular meeting of the Board of Aldermen at 5:30 P.M., December 19, 2006.
Bids are invited for the furnishing of materials, labor and equipment to perform the repair and restoration of designated drainage ditches, roads/ide and easement, within the City of Long Beach.
Contract Documents, including Drawings and Technical Specifications, are on file at the Office of City Clerk at City Hall, Long Beach, Mississippi.
Plans and Specifications may be obtained at the office of A. Garner Russell & Associates, Inc., Consulting Engineers, Hewes Avenue at 33rd Street (Post Office Box 1677), Gulfport, Mississippi 39507, upon payment of \$50.00 non-refundable fee.
A certified check or bank draft payable to the order of City of Long Beach, Mississippi, negotiable U. S. Government bonds (at par value) or a satisfactory Bid Bond executed by the Bidder and an acceptable surety, in an amount equal to five percent (5%) of the total bid for City of Long Beach, DRAINAGE DITCH RECONDITIONING, shall be submitted with each bid.
For bids exceeding \$50,000 Bidder must indicate his Certificate of Responsibility Number on outside of sealed proposal as required by Mississippi Law. For bids not exceeding \$50,000, Bidder must either indicate his Certificate Number, or else write clearly "Bid does not exceed \$50,000."
The City of Long Beach, Mississippi, reserves the right to reject any or all bids or to waive any informalities in the bidding.
Bids may be held by the City of Long Beach, Mississippi for a period not to exceed sixty (60) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of Bidders, prior to awarding of the Contract.
Done by order of the Mayor and Board of Aldermen, November 7, 2006.
City of Long Beach, Mississippi
By SREBECCA SCHRUFF
The CITY CLERK
November 14, 2006

PERSONALLY appeared before me, the undersigned notary public in and for Hinds County, Mississippi,

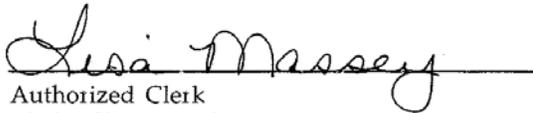
Lisa Massey

an authorized clerk of THE CLARION-LEDGER, a daily newspaper as defined and prescribed in Sections 13-3-31 and 13-3-32 of the Mississippi Code of 1972, as amended, who, being duly sworn, states that the notice, a true copy of which is hereto attached, appeared in the issues of said newspaper as follows:

Dates of Publication:

Lines: 134
Words: 411
Issues: 1
Total: \$52.82
Tuesday, November 14, 2006

Signed


Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me on
11/14/2006


Notary Public
My Commission Expires: 11/08/2008



MY COMMISSION EXPIRES:
November 8, 2008

The Clerk further reported that ten (10) bids were properly filed, whereupon, said bids were then and there publicly opened and read aloud, as follows:

SCI, Inc.
Certificate of Responsibility 04939
10200 Logan Cline Road
Gulfport, MS 39503
Bid Amount: \$ 845,100.00

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Hemphill Construction Company, Inc.
Certificate of Responsibility 2449
P.O. Drawer 879
Florence, MS 39073
Bid Amount: \$ 560,477.50

Natco, Inc.
Certificate of Responsibility 15831
1530 Maplewood Drive
Slidell, LA 70458
Bid Amount: \$ 730,663.00

Kappa Development & General Contracting, Inc.
Certificate of Responsibility 11582
10480 Reichold Road
Gulfport, MS 39505
Bid Amount: \$ 420,750.00

Necaise Brothers Construction Company, Inc.
Certificate of Responsibility 05004
21040 Coastal Parkway
Gulfport, MS 39503
Bid Amount: \$ 713,500.00

Glynn W. Leonard, Inc.
Certificate of Responsibility 2163
63 West Oakvale Road
Mt. Olive, MS 39119
Bid Amount: \$ 690,525.00

Magco, Inc.
Certificate of Responsibility 09218
302 Old Highway 84 Loop Road
Laurel, MS 39443
Bid Amount: \$ 728,499.16

Jay Bearden Construction, Inc.
Certificate of Responsibility 09155
P.O. Box 180428
Richland, MS 39218-0428
Bid Amount: \$ 994,250.00

Storm Reconstruction Services, Inc.
Certificate of Responsibility 13679
1609 Veterans Memorial Parkway
Tuscaloosa, AL 35404
Bid Amount: \$ 574,478.00

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Twin L Construction, Inc.
Certificate of Responsibility 08365
8292 Firetower Road
Pass Christian, MS 39571
Bid Amount: \$ 832,631.25

Upon discussion, Alderman Holder made motion seconded by Alderman Bennett and unanimously carried to take the aforementioned bids under advisement for review and tabulation by the City Engineer with a recommendation at the next regular meeting.

The Clerk reported that pursuant to that certain order of the Mayor and Board of Aldermen at a regular meeting duly held and convened on November 7, 2006, that she did cause to be published in The Clarion-Ledger, Hinds County, Mississippi, and The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, Legal Notice, Advertisement for Bids, "RESTORATION OF DRAINAGE STRUCTURES", as evidenced by the Publisher's Proof of Publication.

Alderman Notter made motion seconded by Alderman Holder and unanimously carried to spread said Proofs of Publication upon the minutes of this meeting in words and figures, as follows:

Minutes of December 19, 2006
Mayor and Board of Aldermen

Proof of Publication

The State of Mississippi

Hinds County

PASTE PROOF HERE

PERSONALLY appeared before me, the undersigned
notary public in and for Hinds County, Mississippi,

Lisa Massey

an authorized clerk of THE CLARION-LEDGER,
a daily newspaper as defined and prescribed in
Sections 13-3-31 and 13-3-32 of the Mississippi Code
of 1972, as amended, who, being duly sworn, states
that the notice, a true copy of which is hereto
attached, appeared in the issues of said newspaper
as follows:

Dates of Publication:

Lines: 134 Tuesday, November 14, 2006
Words: 420
Issues: 1
Total: \$53.90

Signed

Lisa Massey

Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me on
11/14/2006

Marie Mills

Notary Public
My Commission Expires: 11/08/2008



MY COMMISSION EXPIRES:
November 8, 2008

ADVERTISEMENT FOR BIDS
City of Long Beach, Mississippi

The City of Long Beach, Mississippi, will receive bids for:

RESTORATION OF DRAINAGE STRUCTURES

at the Office of the City Clerk, Temporary City Hall on Klondyke Road, Long Beach, Mississippi, during normal office hours at any time prior to the designated bid date, or at the temporary meeting place at Long Beach School District Office on Commission Road at 5:30 PM on the designated date for the bid opening. Bids will be publicly opened and read aloud at the regular meeting of the Board of Aldermen at 5:30 P.M., December 19, 2006.

Bids are invited for the furnishing of materials, labor and equipment for the repair or replacement of various drainage structures which were damaged during Hurricane Katrina south of the CSX Railroad, within the City of Long Beach.

Contract Documents, including Drawings and Technical Specifications, are on file at the Office of City Clerk at City Hall, Long Beach, Mississippi.

Plans and Specifications may be obtained at the office of A Garner Russell & Associates, Inc., Consulting Engineers, Howes Avenue at 33rd Street (Post Office Box 1677), Gulfport, Mississippi 39507, upon payment of \$50.00 non-refundable fee.

A certified check or bank draft payable to the order of City of Long Beach, Mississippi, negotiable U.S. Government bonds (at par value), or a satisfactory Bid Bond executed by the Bidder and an acceptable surety, in an amount equal to five percent (5%) of the total bid for City of Long Beach, RESTORATION OF DRAINAGE STRUCTURES, shall be submitted with each bid.

For bids exceeding \$50,000 Bidder must indicate his Certificate of Responsibility Number on outside of sealed proposal as required by Mississippi Law. For bids not exceeding \$50,000, Bidder must either indicate his Certificate Number, or else write clearly "Bid does not exceed \$50,000."

The City of Long Beach, Mississippi, reserves the right to reject any or all bids or to waive any formalities in the bidding.

Bids may be held by the City of Long Beach, Mississippi, for a period not to exceed sixty (60) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of Bidders, prior to awarding of the Contract.

Done by order of the Mayor and Board of Aldermen, November 7, 2006.

City of Long Beach, Mississippi
By S/REBECCA SCHRUFF
Title CITY CLERK

November 14, 2006

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

PROOF OF PUBLICATION

ADVERTISEMENT FOR BIDS
 City of Long Beach, Mississippi
 The City of Long Beach, Mississippi, will receive bids for RESTORATION OF DRAINAGE STRUCTURES at the Office of the City Clerk, Temporary City Hall on Klondyke Road, Long Beach, Mississippi, during normal office hours at any time prior to the designated bid date, or at the temporary meeting place at Long Beach School District Office on Commission Road at 5:30 PM on the designated date for the bid opening. Bids will be publicly opened and read aloud at the regular meeting of the Board of Aldermen at 5:30 P.M., December 19, 2006. Bids are invited for the furnishing of materials, labor and equipment for the repair or replacement of various drainage structures which were damaged during Hurricane Katrina, south of the CSX Railroad, within the City of Long Beach. Contract Documents, including Drawings and Technical Specifications, are on file at the Office of City Clerk, at City Hall, Long Beach, Mississippi. Plans and Specifications may be obtained at the office of A. Garner Russell & Associates, Inc., Consulting Engineers, Howe Avenue at 33rd Street (Post Office Box 1677), Gulfport, Mississippi 39507, upon payment of \$50.00 non-refundable fee. A certified check or bank draft payable to the order of City of Long Beach, Mississippi, negotiable U.S. Government bonds (at par value), or a satisfactory Bid Bond executed by the Bidder and an acceptable surety in an amount equal to five percent (5%) of the total bid for City of Long Beach, RESTORATION OF DRAINAGE STRUCTURES, shall be submitted with each bid. For bids exceeding \$50,000 Bidder must indicate his Certificate of Responsibility Number on outside of sealed proposal as required by Mississippi Law. For bids not exceeding \$50,000, Bidder must either indicate his Certificate Number, or else write clearly "Bid does not exceed \$50,000". The City of Long Beach, Mississippi, reserves the right to reject any or all bids or to waive any informalities in the bidding. Bids may be held by the City of Long Beach, Mississippi, for a period not to exceed sixty (60) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of Bidders, prior to awarding of the Contract. Done by order of the Mayor and Board of Aldermen, November 7, 2006. City of Long Beach, Mississippi
 By S/REBECCA SCHRUFF
 Title CITY CLERK
 F40.adv13.20.2Mon 1108916

STATE OF MISSISSIPPI
 COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Ashley Bearfield who, being by me first duly sworn, did depose and say that she is a clerk of The Sun Herald, a newspaper published in the city of Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 2 times in the following numbers and on the following dates of such paper, viz:

- Vol. 123 No., 41 dated 13 day of November, 2006
- Vol. 123 No., 48 dated 20 day of November, 2006
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____
- Vol. _____ No., _____ dated _____ day of _____, 20 _____

Affiant further states on oath that said newspaper has been established and published continuously in said country for a period of more than twelve months next prior to the first publication of said notice.

A. Bearfield
 Clerk

Sworn to and subscribed before me this 22 day of November, A.D., 2006

Karen Shook
 Notary Public

Printer's Fee \$ 87.34
 Furnishing proof of publication \$ 3.00
 TOTAL 90.34

The Clerk further reported that six (6) bids were properly filed, whereupon, said bids were then and there publicly opened and read aloud, as follows:

Twin L Construction, Inc.
 Certificate of Responsibility 08365
 8292 Firetower Road
 Pass Christian, MS 39571
 Bid Amount: \$ 417,549.00

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

SCI, Inc.
Certificate of Responsibility 04939
10200 Logan Cline Road
Gulfport, MS 39503
Bid Amount: \$769,330.00

Hemphill Construction Company, Inc.
Certificate of Responsibility 2449
P.O. Drawer 879
Florence, MS 39073
Bid Amount: \$ 567,868.00

Glynn W. Leonard, Inc.
Certificate of Responsibility 2163
63 West Oakvale Road
Mt. Olive, MS 39119
Bid Amount: \$ 776,895.00

Necaise Brothers Construction Company, Inc.
Certificate of Responsibility 05004
21040 Coastal Parkway
Gulfport, MS 39503
Bid Amount: \$ 718,427.08

Natco, Inc.
Certificate of Responsibility 15831
1530 Maplewood Drive
Slidell, LA 70458
Bid Amount: \$ 553,431.42

Upon discussion, Alderman Notter made motion seconded by Alderman Lishen and unanimously carried to take the aforementioned bids under advisement for review and tabulation by the City Engineer with a recommendation at the next regular meeting.

The Clerk reported that pursuant to that certain order of the Mayor and Board of Aldermen at a regular meeting duly held and convened on November 7, 2006, that she did cause to be published in The Clarion-Ledger, Hinds County, Mississippi, and The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, Legal Notice, Advertisement for Bids, 'DRAINAGE SYSTEM CLEANING', as evidenced by the Publisher's Proof of Publication.

Alderman Bennett made motion seconded by Alderman Notter and unanimously carried to spread said Proofs of Publication upon the minutes of this meeting in words and figures, as follows:

Minutes of December 19, 2006
Mayor and Board of Aldermen

Proof of Publication

The State of Mississippi

Hinds County

PASTE PROOF HERE

PERSONALLY appeared before me, the undersigned
notary public in and for Hinds County, Mississippi,

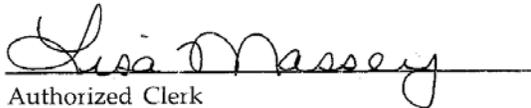
Lisa Massey

an authorized clerk of THE CLARION-LEDGER,
a daily newspaper as defined and prescribed in
Sections 13-3-31 and 13-3-32 of the Mississippi Code
of 1972, as amended, who, being duly sworn, states
that the notice, a true copy of which is hereto
attached, appeared in the issues of said newspaper
as follows:

Dates of Publication:

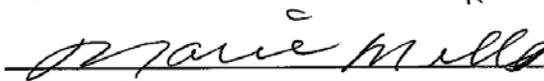
Lines:	136	Tuesday, November 14, 2006
Words:	428	
Issues:	1	
Total:	\$54 86	

Signed



Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me on
11/14/2006



Notary Public

My Commission Expires: 11/08/2008



MY COMMISSION EXPIRES:
November 8, 2008

ADVERTISEMENT FOR BIDS
City of Long Beach, Mississippi
The City of Long Beach, Mississippi, will receive bids
for:

DRAINAGE SYSTEM CLEANING

at the Office of the City Clerk, Temporary City Hall on
Klondyke Road, Long Beach, Mississippi, during normal
office hours at any time prior to the designated bid date, or at
the temporary meeting place at Long Beach School District
Office on Commission Road at 5:30 PM on the designated
date for the bid opening. Bids will be publicly opened and
read aloud at the regular meeting of the Board of Aldermen at
5:30 P.M.
December 19, 2006.

Bids are invited for the furnishing of materials, labor and
equipment to remove all debris from drainage culverts, box
culverts, and drainage structures, which debris was caused
by Hurricane Katrina. All cleaning work shall be performed
south of the CSX Railroad, within the City of Long Beach.

Contract Documents, including Drawings and Technical
Specifications, are on file at the Office of City Clerk, at City
Hall, Long Beach, Mississippi.

Plans and Specifications may be obtained at the office of A
Garner Russell & Associates, Inc., Consulting Engineers,
Hewes Avenue at 33rd Street (Post Office Box 1677),
Gulfport, Mississippi 38507, upon payment of \$50.00
non-refundable fee.

A certified check or bank draft payable to the order of City of
Long Beach, Mississippi, negotiable U.S. Government bonds
(at par value), or a satisfactory Bid Bond executed by the
Bidder and an acceptable surety in an amount equal to five
percent (5%) of the total bid for City of Long Beach,
DRAINAGE SYSTEM CLEANING, shall be submitted with
each bid.

For bids exceeding \$50,000 Bidder must indicate his
Certificate of Responsibility Number on outside of sealed
proposal as required by Mississippi Law. For bids not
exceeding \$50,000, Bidder must either indicate his Certificate
Number, or else write clearly "Bid does not exceed \$50,000."

The City of Long Beach, Mississippi, reserves the right to
reject any or all bids or to waive any informalities in the
bidding.

Bids may be held by the City of Long Beach, Mississippi, for
a period not to exceed sixty (60) days from the date of the
opening of bids for the purpose of reviewing the bids and
investigating the qualifications of Bidders, prior to awarding of
the Contract.

Done by order of the Mayor and Board of Aldermen
November 7, 2006.

City of Long Beach, Mississippi
By: REBECCA SCHRUFF
The CITY CLERK

November 14, 2006

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

PROOF OF PUBLICATION

ADVERTISEMENT FOR BIDS
 The City of Long Beach, Mississippi, will receive bids for: **DRAINAGE SYSTEM CLEANING** at the Office of the City Clerk, Temporary City Hall on Klondyke Road, Long Beach, Mississippi, during normal office hours at any time prior to the designated bid date, or at the temporary meeting place at Long Beach School District Office on Commission Road at 5:30 PM on the designated date for the bid opening. Bids will be publicly opened and read aloud at the regular meeting of the Board of Aldermen at 5:30 P.M., December 19, 2006. Bids are invited for the furnishing of materials, labor and equipment to remove all debris from drainage culverts, box culverts, and drainage structures, which debris was caused by Hurricane Katrina. All cleaning work shall be performed south of the CSX Railroad, within the City of Long Beach. Contract Documents, including Drawings and Technical Specifications, are on file at the Office of City Clerk, at City Hall, Long Beach, Mississippi. Plans and Specifications may be obtained at the office of A. Garner Russell & Associates, Inc., Consulting Engineers, Hewes Avenue at 13th Street (Post Office Box 1677), Gulfport, Mississippi 39507, upon payment of \$50.00, non-refundable fee. A certified check or bank draft payable to the order of City of Long Beach, Mississippi, negotiable U. S. Government bonds (at par value), or a satisfactory Bid Bond executed by the Bidder and an acceptable surety, in an amount equal to five percent (5%) of the total bid for City of Long Beach, DRAINAGE SYSTEM CLEANING, shall be submitted with each bid. For bids exceeding \$50,000, Bidder must indicate his Certificate of Responsibility Number on outside of sealed proposal as required by Mississippi Law. For bids not exceeding \$50,000, Bidder must either indicate his Certificate Number, or also write clearly "Bid does not exceed \$50,000". The City of Long Beach, Mississippi, reserves the right to reject any or all bids or to waive any informalties in the bidding. Bids may be held by the City of Long Beach, Mississippi, for a period not to exceed sixty (60) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of Bidders prior to awarding of the Contract. Done by order of the Mayor and Board of Aldermen, November 7, 2006.
 City of Long Beach, Mississippi.
 By: S/REBECCA SCHUFF
 Title: CITY CLERK
 R39,adv13,20,2Mon
 1108913

STATE OF MISSISSIPPI
 COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Ashtey Beardfield who, being by me first duly sworn, did depose and say that she is a clerk of The Sun Herald, a newspaper published in the city of Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 2 times in the following numbers and on the following dates of such paper, viz:

- Vol. 123 No., 41 dated 13 day of November, 2006
- Vol. 123 No., 48 dated 20 day of November, 2006
- Vol. _____ No., _____ dated _____ day of _____, 20____
- Vol. _____ No., _____ dated _____ day of _____, 20____
- Vol. _____ No., _____ dated _____ day of _____, 20____
- Vol. _____ No., _____ dated _____ day of _____, 20____
- Vol. _____ No., _____ dated _____ day of _____, 20____
- Vol. _____ No., _____ dated _____ day of _____, 20____

Affiant further states on oath that said newspaper has been established and published continuously in said country for a period of more than twelve months next prior to the first publication of said notice.

[Signature]
 Clerk

Sworn to and subscribed before me this 22 day of November, A.D., 2006

[Signature]
 Notary Public

Printer's Fee \$ 89.10
 Furnishing proof of publication \$ 3.00
 TOTAL 92.10

The Clerk further reported that six (6) bids were properly filed, whereupon, said bids were then and there publicly opened and read aloud, as follows:

Hemphill Construction Company, Inc.
 Certificate of Responsibility 2449
 P.O. Drawer 879
 Florence, MS 39073
 Acknowledge Addendum No. 1: Yes
 Bid Amount: \$ 434,989.20

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Jay Bearden Construction, Inc.
Certificate of Responsibility 09155
P.O. Box 180428
Richland, MS 39218-0428
Acknowledge Addendum No. 1: Yes
Bid Amount: \$ 795,622.00

Complete Environmental & Remediation Company, LLC
Certificate of Responsibility 11201
37 David Swan Lane
Purvis, MS 39475
Acknowledge Addendum No. 1: Yes
Bid Amount: \$683,739.70

Compliance EnviroSystems, LLC
Certificate of Responsibility 12491
1401 Seaboard Drive
Baton Rouge, LA 70810
Acknowledge Addendum No. 1: No
Bid Amount: \$ 204,408.50

Necaise Brothers Construction Company, Inc.
Certificate of Responsibility 05004
21040 Coastal Parkway
Gulfport, MS 39503
Acknowledge Addendum No. 1: Yes
Bid Amount: \$ 360,376.51

Performance Contracting, Inc.
Certificate of Responsibility 07320
1877 Vanderhorn Drive
Memphis, TN 38134
Acknowledge Addendum No. 1: Yes
Bid Amount: \$ 800,668.88

Upon discussion, Alderman Holder made motion seconded by Alderman Lishen and unanimously carried to take the aforementioned bids under advisement for review and tabulation by the City Engineer with a recommendation at the next regular meeting.

Alderman Holder made motion seconded by Alderman McNary and unanimously carried authorizing advertisement for bids, 'SIGN POSTS'.

There came on for consideration a letter from Louis A. Traina, P. E., Capital Engineering, Inc., as follows:

Minutes of December 19, 2006
Mayor and Board of Aldermen



December 12, 2006

John Campton
A. Garner Russell & Associates
5230 33rd Street
Gulfport, MS 39507

Subject: Project No. 8033
Long Beach Library Elevator Repair
Bid Tabulation & Recommendation for Placement

John,

Bids for the repair of the library elevator were solicited from the following elevator repair companies:

1. Brock Elevator Service (INCLINATOR COMPANY OF AMERICA Dealer)
2. Champagne Elevators, Inc. (INCLINATOR COMPANY OF AMERICA Dealer)
3. Mowrey Elevator Company of Florida, Inc.
4. Northlake Premier Elevator and Lift Company, LLC
5. KanDuit Construction, Inc.

Only Brock Elevator Service submitted a bid Their bid was in the amount of \$8,950.00.

Based on the above data, we recommend placement of the order with the only bidder, Brock Elevator Service.

If you have any questions, or require additional information, please do not hesitate to contact me.

Sincerely,

Louis A. Traina, P.E.
LAT / car

6933 Indianapolis Blvd , Hammond, IN 46324 <http://www.capital-eng.com> 219-844-1984 Fax 219-845-9902

It was noted for the record that bids for 'HURRICANE KATRINA RECOVERY LONG BEACH PUBLIC LIBRARY ELEVATOR REPLACEMENT' were advertised in The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, and scheduled for receipt October 17, 2006, however, no bids were filed with the City Clerk.

Upon further discussion, Alderman Notter made motion seconded by Alderman Holder and unanimously carried to accept the recommendation of Mr. Traina as set forth above, awarding the contract to Brock Elevator Service in the amount of \$8,950.00.

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

The Mayor and Board of Aldermen acknowledged and expressed the City's gratitude for funds donated in the amount of \$5,000.00 by State Farm Insurance Company to the Fire Department.

The Municipal Docket was amended to remove Item XI.7. NEW BUSINESS; Employee Evaluations-Alderman Notter.

Alderman Holder made motion seconded by Alderman Lishen and unanimously carried to approve the regular meeting and executive session minutes of the Mayor and Board of Aldermen dated December 5, 2006, as submitted.

There came on for consideration the December 14, 2006, Planning Commission minutes and an appeal filed, as follows:

**Minutes of December 19, 2006
Mayor and Board of Aldermen**



1203 Broad Avenue, Suite A
Gulfport, MS 39501
Main (228) 864-0161
Fax (228) 863-5278
vfrankiewicz@dkslaw.com
www.dkslaw.com

VICTOR J. FRANCKIEWICZ, JR.
Counselor at Law
Admitted in Mississippi and Louisiana

December 19, 2006

VIA MAIL AND FAX: (228) 865-0822

Rebecca Schruff, City Clerk
City of Long Beach
P.O. Box 929
Long Beach, MS 39560

**Re: Appeal of Commercial Zone Boundary Determination
December 14, 2006 Planning Commission Meeting
Lot 6, Model Home Subdivision (Jerry's Lawnmower)
DKS File: 00824-00001**

Dear Ms. Schruff:

On behalf of Peggy Joyce Blakeney, our client, we submit this appeal from the December 14, 2006 Long Beach Planning Commission determination of the commercial zone boundary at Lot 6 of Model Home Subdivision. We file this in accordance with the Zoning Ordinance. Mrs. Blakeney lives at 104 Willow Lane in Long Beach across the street from the Jerry's Lawnmower property, and she feels aggrieved at the decision. We understand that in making the decision, the Long Beach Planning Commission was acting in its capacity as the Zoning Board of Appeals.

In accordance with the ordinance, we request a public hearing before the Mayor and Board of Aldermen after due notice

The Minutes of the December 14, 2006 Long Beach Planning Commission meeting indicate a decision was made regarding the interpretation of the boundary of the commercial zone encompassing a portion of the Conchetta Favre/Jerry's Lawnmower property on Seal Avenue and Willow Lane. According to its minutes, the Commission, determined "the Commercial Zone is on the east line of Lot 6 of Model Home Subdivision."

Deutsch, Kerrigan & Stiles, L L P

New Orleans • Monroe • Gulfport • Hattiesburg

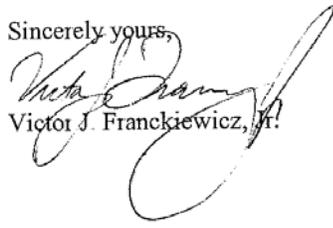
**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Rebecca Schruff, City Clerk
December 19, 2006
Page 2

Mrs. Blakeney appeals this determination because it is inconsistent with the official zoning map, and is also inconsistent with the metes and bounds description.

Please provide notice of the public hearing before the Mayor and Board of Aldermen to Mrs. Blakeney through our office.

Sincerely yours,


Victor J. Franckiewicz, Jr.

cc: The Honorable William Skellie, Jr., Via Fax, 228/865-0822
James C. Simpson, Esq., Via Fax, 228/367-1084
Frank McCreary, Esq., Via Fax, 228/868-8900
Ms. Mimi McMath, 228/865-0822
Ms. Conchetta L. Favre, by mail
Ms. Linda Blakeney, by mail

Upon discussion, Alderman Holder made motion seconded by Alderman Lishen and unanimously carried to approve the December 14, 2006, Planning Commission minutes with exception to the following:

Overrule action taken by the Planning Commission for preliminary plat approval, Penny Lane Subdivision, allowing the subdivision to be built in phases. The developers, Glenn and Val Mueller, were directed to submit the subdivision plans in phases for approval;

Based upon the appeal filed by Peggy Joyce Blakeney, schedule a public hearing Tuesday, January 16, 2007, at 5:30 p.m. to consider the interpretation of the boundary of the commercial zone encompassing a portion of the Conchetta Favre/Jerry's Lawnmower property on Seal Avenue and Willow Lane and the determination that the commercial zone is on the east line of Lot 6 of Model Home Subdivision.

Alderman Notter made motion seconded by Alderman Boggs and unanimously carried to approve the December 13, 2006, Port Commission minutes, as submitted.

There came on for consideration payment of invoices as listed in Docket of Claims number 121906 and letters with attachments from City Engineer John Campton, as follows:

Minutes of December 19, 2006 Mayor and Board of Aldermen



A. GARNER RUSSELL & ASSOCIATES, INC. / CONSULTING ENGINEERS

520 33RD STREET, GULFPORT MS 39507
P.O. BOX 1677 GULFPORT, MS 39502

TEL (228) 863-0667
FAX (228) 863-5232



December 12, 2006

City of Long Beach
P.O. Box 929
Long Beach, MS 39560

Re: **Debris Removal – Hurricane Katrina
Final Acceptance – A.E.R.R.**

Gentlemen:

This is to advise and certify that the above referenced contract has been satisfactorily completed in substantial conformance with the contract requirements. Final documents have been prepared per our records of completed work, but be advised that I have received information that the City may receive a letter from MEMA which expresses concerns over some of the payments which have been made. Allegedly, a Validation Team consisting of FEMA and MEMA personnel had problems finding some of the trees and limbs removed and paid for under Change Order Number 3. I personally believe that every payment made was in accordance with the approved Change Orders, but the Board may feel it prudent to withhold final payment until all indications of any impropriety is removed. The problem is, I have no way of knowing when the official notice from MEMA will arrive (if ever), nor how long it may take to resolve the issues that they may raise. Naturally, the Contractor feels that he has completed the contract, and wants his payment without further delay. I leave a decision about this to the discretion of the Board.

There is another issue that has just come to our attention – two residents on Commission Road allege that a subcontractor to A.E.R.R. removed a portion of an earthen berm between their properties and Canal Number 1. It is unknown why this occurred, but it appears that the allegation is true. This matter has been referred to the Contractor for resolution, but no response has been received.

The proposed final documents are as follows:

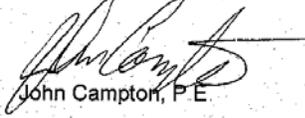
1. Change Order Number 6 (Final), adjusting the contract quantities to conform with the completed work, for a net contract amount decrease of \$177,640.00. The final amount of the contract is \$13,957,968.00.
2. Application for Payment Number 14 (Final), in the amount of \$697,898.40, bringing the total of all payments to the full contract amount.
3. Contractor's Affidavit.

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

December 12, 2006

Note that there were no performance or payment bonds required on this contract, so no release from a bonding company is needed.

Sincerely,



John Campton, P.E.

JC:it:K301II
Enclosures

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

CHANGE ORDER

No. 6 (Final)

Dated 12/5/2006

Owner's Project No. _____ Engineer's Project No. 1757 / K301-I

Project Debris Removal - Hurricane Katrina

Owner City of Long Beach

Contractor Alabama Emergency Response and Recovery Contract Date 9/4/2005

Contract For Debris Removal within Long Beach, as directed by City Engineer

To: Alabama Emergency Response and Recovery Contractor:

You are directed to make the changes noted below in the subject contract:

Owner City of Long Beach

By _____

Date _____

Nature of the Change

Adjust contract quantities to conform with completed work

Enclosures:

The changes result in the following adjustment of Contract Price and Contract Time:

Original Contract Price	<u>\$ 11,750,000.00</u>
Contract Price Prior to This Change Order	<u>\$ 14,135,608.00</u>
Net (Increase) (Decrease) Resulting from this Change Order	<u>\$ (177,640.00)</u>
Current Contract Price Including This Change Order	<u>\$ 13,957,968.00</u>

Minutes of December 19, 2006 Mayor and Board of Aldermen

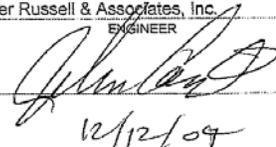
Contract Time Prior to This Change Order	_____ - _____	Calendar Days
Net (Increase) (Decrease) Resulting From This Change Order	_____ 0 _____	Calendar Days
Current Contract Time Including This Change Order	_____ - _____	Calendar Days

The Above Changes Are Approved:

A. Garner Russell & Associates, Inc.
ENGINEER

by _____

Date _____

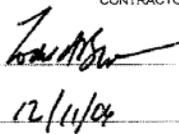


The Above Changes Are Accepted:

Alabama Emergency Response and Recovery
CONTRACTOR

by _____

Date _____



Minutes of December 19, 2006 Mayor and Board of Aldermen

AERR
ATTACHMENT TO CHANGE ORDER NO. 5

PROJECT NO. 1757

NO.	DESCRIPTION	CURRENT CONTRACT QUANTITY	UNIT PRICE	CURRENT CONTRACT EXTENSION	QUANTITY THIS C.O.	EXTENSION THIS C.O.	QUANTITY TO DATE	EXTENSION TO DATE
1	Debris Removal	723,732 CY	\$16.00	\$ 11,579,712.00	(7,325)	\$ (117,200.00)	716,407	\$ 11,462,512.00
2	Tipping Fee / Operation of Disposal Site	724,848 CY	\$2.00	\$ 1,449,296.00	(10,520)	\$ (21,040.00)	714,328	\$ 1,428,256.00
3	Stumps, 12" - 24" Diameter	0 EA	\$350.00	\$ -	0	\$ -	0	\$ -
4	Stumps, 24"+ Diameter	10 EA	\$500.00	\$ 5,000.00	(2)	\$ (1,000.00)	8	\$ 4,000.00
CO3-1	Remove Tree from House, 6" to 12" size.	752 EA	\$800.00	\$ 601,600.00	(43)	\$ (34,400.00)	709	\$ 567,200.00
CO3-2	Remove Tree from House, 13" to 24" size.	264 EA	\$900.00	\$ 237,600.00	10	\$ 9,000.00	274	\$ 246,600.00
CO3-3	Remove Tree from House, 25" to 36" size.	130 EA	\$1,200.00	\$ 156,000.00	(5)	\$ (6,000.00)	125	\$ 150,000.00
CO3-4	Remove Tree from House, above 36" size.	76 EA	\$1,400.00	\$ 106,400.00	(5)	\$ (7,000.00)	71	\$ 99,400.00
CO4-1	Rem & Dispose of dead pine tree from public land, 6" to 12" size	0 EA	\$515.00	\$ -	0	\$ -	0	\$ -
CO4-2	Rem & Dispose of dead pine tree from public land, 13" to 24" size	0 EA	\$900.00	\$ -	0	\$ -	0	\$ -
CO4-3	Rem & Dispose of dead pine tree from public land, 25" to 36" size	0 EA	\$1,500.00	\$ -	0	\$ -	0	\$ -
CO4-4	Rem & Dispose of dead pine tree from public land, above 36" size	0 EA	\$2,100.00	\$ -	0	\$ -	0	\$ -
				\$ 14,135,608.00				\$ 13,957,968.00

APPLICATION FOR PAYMENT NO. 14 (Final)

To: City of Long Beach (OWNER)

Contract for Debris Removal - Hurricane Katrina Dated: 09/04/05

OWNER'S Project No. ENGINEER'S Project No. 1757-II (K-301-II)

For Work accomplished through the date of: 8/26/2006

CURRENT CONTRACT AMOUNT: \$14,135,608.00

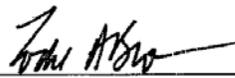
ITEM	CONTRACTOR'S Schedule of Values			Work Completed	
	Unit Price	Quantity	Amount	Quantity	Amount
COMPLETED WORK					\$ 13,957,968.00
TOTAL (Orig Contract)					\$ 13,957,968.00

Accompanying Documentation:	GROSS AMOUNT DUE	\$ 13,957,968.00
	LESS 0% RETAINAGE	\$ 0.00
	AMOUNT DUE TO DATE	\$ 13,957,968.00
	LESS PREVIOUS PAYMENTS	\$ 13,260,069.60
	AMOUNT DUE THIS APPLICATION	\$ 697,898.40

CONTRACTOR'S Certification:

The undersigned CONTRACTOR certifies that (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied to discharge in full all obligations of CONTRACTOR incurred in connection with Work covered by prior Applications for Payment numbered 1 thru 13 inclusive; and (2) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all liens, claims, security interests and encumbrances (except such as covered by Bond acceptable to OWNER).

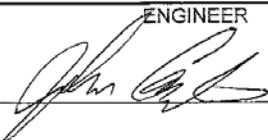
Dated , 2006 ALABAMA EMERGENCY RESPONSE AND RECOVERY
CONTRACTOR

By: 

ENGINEER'S Recommendation:

This Application (with accompanying documentation) meets the requirements of the Contract Documents and payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated 8/12, 2006 A. GARNER RUSSELL & ASSOCIATES, INC.
ENGINEER

By: 

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

ALABAMA EMERGENCY RESPONSE

ATTACHMENT TO PAY ESTIMATE NO. 14

PROJECT NO. 1757-II
Page 2 of 2

NO.	DESCRIPTION	CURRENT CONTRACT QUANTITY	UNIT PRICE	CURRENT CONTRACT AMOUNT	PREVIOUS QUANTITY	PREVIOUS EXTENSION	QUANTITY THIS EST.	EXTENSION THIS EST.	QUANTITY TO DATE	EXTENSION TO DATE
1	Debris Removal	716,407 C.Y.	\$16.00	\$11,462,512.00	716,407	\$11,462,512.00	0	\$0.00	716,407	\$11,462,512.00
2	Tipping Fee & Operation of Disposal Site	714,128 C.Y.	\$2.00	\$1,428,256.00	714,128	\$1,428,256.00	0	\$0.00	714,128	\$1,428,256.00
3	Stumps 12"-24" Diameter	0 EA.	\$350.00	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
4	Stumps 24" + Diameter	8 EA.	\$500.00	\$4,000.00	8	\$4,000.00	0	\$0.00	8	\$4,000.00
CO 3-1	Remove Tree from House, 8" to 12" Size	709 EA.	\$900.00	\$637,200.00	709	\$637,200.00	0	\$0.00	709	\$637,200.00
CO 3-2	Remove Tree from House, 13" to 24" Size	274 EA.	\$900.00	\$246,600.00	274	\$246,600.00	0	\$0.00	274	\$246,600.00
CO 3-3	Remove Tree from House, 25" to 36" Size	125 EA.	\$1,200.00	\$150,000.00	125	\$150,000.00	0	\$0.00	125	\$150,000.00
CO 3-4	Remove Tree from House, above 36" Size	71 EA.	\$1,400.00	\$99,400.00	71	\$99,400.00	0	\$0.00	71	\$99,400.00
TOTAL WORK COMPLETED				\$13,957,968.00		\$13,957,968.00		\$0.00		\$13,957,968.00
RETAINAGE @ 5%				\$0.00		\$0.00		\$0.00		\$0.00
NET AMOUNT DUE:						\$13,957,968.00		\$0.00		\$13,957,968.00

Minutes of December 19, 2006
Mayor and Board of Aldermen

CONTRACTOR'S AFFIDAVIT OF
PAYMENT OF DEBTS AND CLAIMS
AND WAIVER OF LIENS

TO: (Owner) _____
City of Long Beach _____ ENGINEER'S PROJECT NO K301-II
CONTRACT FOR: _____
CONTRACT DATE: 9/4/2005

PROJECT: Debris Removal - Hurricane Katrina

State of: _____
County of: _____

The undersigned, pursuant to Article 14 of the General Conditions, hereby certifies that, except as listed below, he has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his property might be held responsible.

EXCEPTIONS: (If none, write "None". If required by Owner, the Contractor shall furnish bond satisfactory to Owner for each exception.)

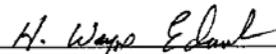
None

CONTRACTOR: Alabama Emergency Response & Recovery
(Address) 8243 Old Federal Highway
Montgomery, AL 35117

BY: 

Subscribed and sworn to before me this 11 day of December, 2006.

Notary Public:



My Commission Expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Oct 22, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

ONE PAGE

**Minutes of December 19, 2006
Mayor and Board of Aldermen**



A. GARNER RUSSELL & ASSOCIATES, INC. / CONSULTING ENGINEERS

520 33RD STREET, GULFPORT MS 39507
P O BOX 1677, GULFPORT MS 39502

TEL (228) 863-0667
FAX (228) 863-5232



December 12, 2006

City of Long Beach
P O Box 929
Long Beach, MS 39560

Re: **Debris Removal – Hurricane Katrina
Final Acceptance – Necaize Brothers Construction**

Gentlemen:

This is to advise and certify that the above referenced contract has been satisfactorily completed in substantial conformance with the contract requirements. I have received no indication of any problems regarding this contract from FEMA or MEMA. I therefore now recommend final settlement with this contractor, in accordance with the following enclosed documents:

1. Change Order Number 6 (Final), adjusting the contract quantities to conform with the completed work, for a net contract amount increase of \$29,600. The final amount of the contract is \$11,830,750.00.
2. Application for Payment Number 14 (Final), in the amount of \$545,795.00, bringing the total of all payments to the full contract amount.
3. Contractor's Affidavit

Note that there were no performance or payment bonds required on this contract, so no release from a bonding company is needed.

Sincerely,

John Campton, P.E.

JC:lt:K301
Enclosures

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

CHANGE ORDER

No. 6 (Final)

Dated 12/5/2006

Owner's Project No. _____ Engineer's Project No. 1757 / K301-I
Project Debris Removal - Hurricane Katrina
Owner City of Long Beach

Contractor Necaise Brothers Construction Company, Inc Contract Date 9/4/2005
Contract For Debris Removal within Long Beach, as directed by City Engineer

To: Necaise Brothers Construction Company, Inc Contractor:

You are directed to make the changes noted below in the subject contract:

Owner City of Long Beach
By _____
Date _____

Nature of the Change

Adjust contract quantities to conform with completed work

Enclosures:

The changes result in the following adjustment of Contract Price and Contract Time:

Original Contract Price	<u>\$ 11,750,000.00</u>
Contract Price Prior to This Change Order	<u>\$ 11,801,150.00</u>
Net (Increase) (Decrease) Resulting from this Change Order	<u>\$ 29,600.00</u>
Current Contract Price Including This Change Order	<u>\$ 11,830,750.00</u>

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

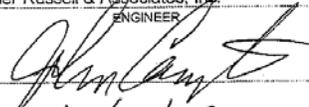
Contract Time Prior to This Change Order _____ - _____ Calendar Days
Net (Increase) (Decrease) Resulting From This Change Order _____ 0 _____ Calendar Days
Current Contract Time Including This Change Order _____ - _____ Calendar Days

The Above Changes Are Approved:

A. Garner Russell & Associates, Inc.
ENGINEER

by

Date

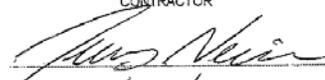

12/12/06

The Above Changes Are Accepted:

Necaise Brothers Construction Company, Inc.
CONTRACTOR

by

Date


12/11/06

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NECAISE
ATTACHMENT TO CHANGE ORDER NO. 6

PROJECT NO. 1757

NO.	DESCRIPTION	CURRENT CONTRACT QUANTITY	UNIT PRICE	CURRENT CONTRACT EXTENSION	QUANTITY THIS C.O.	EXTENSION THIS C.O.	QUANTITY TO DATE	EXTENSION TO DATE
1	Debris Removal	839,838 CY	\$16.00	\$ 10,234,208.00	(4,288)	\$ (68,608.00)	835,350	\$ 10,185,600.00
2	Tipping Fee / Operation of Disposal Site	839,971 CY	\$2.00	\$ 1,279,942.00	(6,396)	\$ (12,792.00)	633,575	\$ 1,267,150.00
3	Stumps, 12" - 24" Diameter	0 EA	\$350.00	\$ -	0	\$ -	0	\$ -
4	Stumps, 24"+ Diameter (Hazardous)	95 EA	\$500.00	\$ 27,500.00	(5)	\$ (2,500.00)	50	\$ 25,000.00
CO3-1	Remove Tree from House, 8" to 12" size.	162 EA	\$800.00	\$ 129,600.00	135	\$ 108,000.00	297	\$ 237,600.00
CO3-2	Remove Tree from House, 13" to 24" size.	95 EA	\$900.00	\$ 85,500.00	(5)	\$ (4,500.00)	90	\$ 81,000.00
CO3-3	Remove Tree from House, 25" to 36" size.	30 EA	\$1,200.00	\$ 36,000.00	6	\$ 7,200.00	36	\$ 43,200.00
CO3-4	Remove Tree from House, above 36" size.	6 EA	\$1,400.00	\$ 8,400.00	2	\$ 2,800.00	8	\$ 11,200.00
CO4-1	Rem & Dispose of dead pine tree from public land, 5" to 12" size	0 EA	\$515.00	\$ -	0	\$ -	0	\$ -
CO4-2	Rem & Dispose of dead pine tree from public land, 13" to 24" size	0 EA	\$900.00	\$ -	0	\$ -	0	\$ -
CO4-3	Rem & Dispose of dead pine tree from public land, 25" to 36" size	0 EA	\$1,500.00	\$ -	0	\$ -	0	\$ -
CO4-4	Rem & Dispose of dead pine tree from public land, above 36" size	0 EA	\$2,100.00	\$ -	0	\$ -	0	\$ -
				\$ 11,801,150.00		\$ 29,600.00		\$ 11,830,750.00

CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS AND WAIVER OF LIENS

TO: (Owner) _____
City of Long Beach _____ ENGINEER'S PROJECT NO K301-I
 _____ CONTRACT FOR: _____
 _____ CONTRACT DATE: 9/4/2005

PROJECT: Debris Removal - Hurricane Katrina

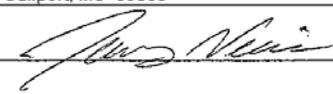
State of: _____
 County of: _____

The undersigned, pursuant to Article 14 of the General Conditions, hereby certifies that, except as listed below, he has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his property might be held responsible.

EXCEPTIONS: (If none, write "None". If required by Owner, the Contractor shall furnish bond satisfactory to Owner for each exception.)

None

CONTRACTOR: Necaise Brothers Construction Co.
 (Address) 21040 Coastal Parkway
Gulfport, MS 39503

BY: 

Subscribed and sworn to before me this 11 day of December, 2006.

Notary Public: 
 My Commission Expires: _____
NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE
 MY COMMISSION EXPIRES: Nov 15, 2009
 BONDED THRU NOTARY PUBLIC UNDERWRITERS

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Upon discussion, Alderman Boggs reiterated his concern as to the legality of and his opposition to releasing funds to AERR based upon his strong suspicion that former Alderman Jimmy Levens benefited directly or indirectly from the debris removal contract with AERR prior to being out of office for one year.

Upon further discussion, Alderman Bennett stated his opposition to the annual payment in the amount of \$20,000.00 to the Humane Society of South Mississippi, invoice number 120106-PLEDG, due to funding and budgetary constraints.

After considerable discussion, Alderman Bennett made motion seconded by Alderman Notter and unanimously carried to approve payment of invoices as listed in Docket of Claims number 121906 with exceptions, as follows:

Based upon the recommendation of City Engineer John Campton, hold payment to Alabama Emergency Response and Recovery (AERR), invoice number 1757II-14FIN in the amount of \$697,898.40 for debris removal until such time as FEMA/MEMA problems are resolved;

Based upon the recommendation of City Engineer John Campton, hold payment to Hancock Bank and Necaise Brothers Construction Company, Inc., invoice number 1757-II-14FINA in the amount of \$545,795.00 for debris removal until such time as FEMA/MEMA problems are resolved;

Void payment in the amount of \$20,000.00 to the Humane Society of South Mississippi, invoice number 120106-PLEDG, for annual payment.

Alderman Holder made motion seconded by Alderman Bennett to adopt the following resolution:

Minutes of December 19, 2006 Mayor and Board of Aldermen

RESOLUTION OF THE CITY OF LONG BEACH STATING THE COMMITMENT OF THE CITY TO IMPLEMENT A POST-HURRICANE KATRINA COMPREHENSIVE PLAN, ZONING ORDINANCE, SUBDIVISION REGULATIONS AND ARCHITECTURAL DESIGN STANDARDS; AND FOR RELATED PURPOSES

WHEREAS, the City of Long Beach received significant and widespread damage from the effects of Hurricane Katrina including the loss of 40% of the City's property tax base, loss of about 60 businesses, destruction of or damage to thousands of homes and widespread major damage to streets, drainage and public utilities; and

WHEREAS, land development patterns, redevelopment and other aspects of the recovery and rebuilding of the City of Long Beach have been altered dramatically by the impact of Hurricane Katrina; and

WHEREAS, the broad and far reaching effects of Hurricane Katrina have rendered the current Comprehensive Plan obsolete; and

WHEREAS, the changed and changing land development patterns and the required redevelopment make it necessary to undertake a comprehensive review of land use patterns and current zoning districts and to prepare an updated zoning ordinance; and

WHEREAS, the regulation of the subdivision of land and redevelopment of land require adherence to new and changing regulatory measures from all levels of government, it is necessary to prepare subdivision regulations to regulate development and redevelopment of land; and

WHEREAS, the effects of Hurricane Katrina will require redevelopment, new development and overall revitalization of the downtown areas of Long Beach and said redevelopment, new development and revitalization will be enhanced by the development of Architectural Design Standards to insure that the revitalization is in keeping with standards of high quality; and

WHEREAS, it is necessary and appropriate that the rebuilding and recovery of Long Beach is consistent with the plans and recommendations of the Governor's Commission on Rebuilding, Recovery and Renewal.

Minutes of December 19, 2006 Mayor and Board of Aldermen

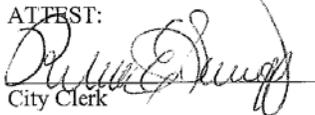
NOW, THEREFORE BE IT RESOLVED THAT THE MAYOR AND ALDERMEN OF THE CITY OF LONG BEACH THAT:

1. The City of Long Beach is hereby fully committed to the preparation of an overall Comprehensive Plan, preparation of an updated Zoning Ordinance and Map, preparation of new Subdivision Regulations and preparation of Architectural Design Standards for the downtown area all of which will be consistent with the plans and recommendations of the Governor's Commission on Rebuilding, Recovery and Renewal.
2. The City of Long Beach acknowledges the importance and necessity of guiding the rebuilding and recovery of Long Beach through the implementation of the Comprehensive Plan, Zoning Ordinance, Subdivision Regulations and Architectural Design Standards.
3. The Mayor and Aldermen of the City of Long Beach hereby pledge their commitment to the implementation of the Comprehensive Plan, Zoning Ordinance, Subdivision Regulations and Architectural Design Standards in the rebuilding and recovery of the City.

Resolved this the 19th day of December 2006.


Mayor William Skellie, Jr.

ATTEST:


City Clerk

VOTED: AYE
Alderman RICHARD NOTTER

VOTED: AYE
Alderman RICHARD BURTON

VOTED: AYE
Alderman CHARLES BOGGS

VOTED: AYE
Alderman RICHARD BENNETT

VOTED: AYE
Alderman ALLEN D. HOLDER, JR.

VOTED: AYE
Alderman MARK LISHEN

VOTED: AYE
Alderman JOSEPH McNARY

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OUTLINE FOR COMPREHENSIVE PLAN FOR LONG BEACH, MISSISSIPPI

- I. The Planning Process/Development of the Comprehensive Plan**
- A. The development of the Comprehensive Plan for the City of Long Beach shall be undertaken in a manner that maximizes input and involvement of the City Planning Commission, elected officials, and citizens of Long Beach.
- The development of the Plan shall give full and careful consideration to the Governor's Charrette for the City of Long Beach and shall incorporate recommendations of the Charrette into the Plan. The Comprehensive Plan shall be consistent with the renewal Master Plan developed by the Governor's Commission on Rebuilding, Recovery and Renewal.
- II. Delineate Planning Area**
- A. Corporate Limits
B. Area outside corporate limits
C. Planning Area Map
- III. Establishment of Long-Range Goals and Objectives for Development of Long Beach (20-25 years) for the following:**
- A. Residential Development;
B. Commercial Development;
C. Industrial Development;
D. Development of Parks, Open Space, and Recreation;
E. Street or Road Improvements;
F. Public Schools; and
G. Community Facilities
- IV. Existing Land Use Inventory and Analysis**
- A. Preparation of an existing land use study and map that will depict the utilization of land in the City and its planning area according to land use categories, i.e., residential, commercial, industrial, public and semi-public, etc.
- B. Preparation of a Neighborhood Analysis and Neighborhood Improvement Strategy. This analysis and strategy will delineate neighborhood study areas within the City, will undertake an inventory and analysis of housing, public facilities, and utilities in each neighborhood, and develop strategies for long- and short-term development, redevelopment, and/or revitalization of each neighborhood.
- C. Preparation of a vacant land analysis to identify vacant parcels of land and their suitability for development. This analysis will classify vacant land into the following categories:
1. Vacant and developable;
 2. Vacant and subject to the 100-year flood;
 3. Vacant and in a floodway;
 4. Vacant and subject to severe slope; and
 5. Vacant and subject to other development constraints.

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- V. **Population Study and Projections**
- A. An analysis of the ethnic composition of the City and County
 - B. Populations by age and sex for City and County
 - C. Number of households by type for City and County
 - D. Population trends since 1970 for City, County, and region
 - E. Incremental population projections for 2010, 2015, 2020, and 2025
- VI. **Housing Characteristics**
- A. Analysis of housing occupancy and tenure
 - B. Value of owner-occupied units
 - C. Contract rent in rental units
 - D. Ethnic origin of households
 - E. Housing trends and the market
 - F. Recommendations
- VII. **Economic and Employment Analysis**
- A. City, County, and regional employment trends
 - B. Analysis of employment by sector, i.e., retail, service, manufacturing, etc
 - C. Major employers by type
 - D. Major factors affecting the economy and employment – current and future
 - E. Trends in retail sales
 - F. Recommendations for economic development and for maximizing development opportunities for the following sectors:
 - 1. Retail and commercial development
 - 2. Industrial development
 - 3. Eco-Tourism development
- IX. **Community Facilities and Services Study**
- A. A careful analysis of services and facilities offered by the City of Long Beach and the development of recommendations relative to each:
 - 1. City Hall
 - 2. Police Protection
 - 3. Fire Protection
 - 4. Public Library
 - 5. Garbage Collection
 - 6. Drainage
 - 7. Water System
 - 8. Sanitary Sewer System
 - 9. Natural Gas System
 - 10. Recreational Facilities
 - 11. Schools
 - 12. Housing
 - 13. Animal Control
 - 14. Others
- X. **Transportation Analysis and Plan**
- A. Development of a Transportation Plan in map form that sets forth the functional classification of all existing and proposed streets
 - B. Development of recommendations relative to street improvements needed
 - C. Identifications of other transportation modes, i.e., railroad, airport, and an analysis of each. Recommendations will be provided
 - D. Development of a Pedestrian and Bicycle Pathway Plan
- XI. **Future Land Use Plan**
- A. Preparation of a Land Use Plan in map form. The plan shall depict the general distribution and extent of land for residential, commercial, industrial, and other uses. The Land Use Plan shall be the legal basis for the Zoning Ordinance of the City of Long Beach

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XII. Special Analyses

A. *Downtown Renewal Implementation Strategy*

The Long Beach Downtown Renewal Plan shall be the basis for the preparation of a five (5) year Downtown Renewal Implementation Strategy. The Strategy shall incorporate recommendations of the Governor's Charrette and shall be consistent with the Long Beach Renewal Master Plan.

The Implementation Strategy shall include recommendations, estimates of costs, and shall identify reasonable funding sources.

B. *Waterfront Master Plan Implementation Strategy*

The Long Beach Waterfront Master Plan, the Downtown Renewal Plan, and the Governor's Charrette shall be the basis for the preparation of a five (5) year Waterfront Plan Implementation Strategy. The Implementation Strategy shall be consistent with the City's Waterfront Master Plan, the Downtown Renewal Plan, and the Long Beach Renewal Master Plan recommended by the Governor's Commission.

The Implementation Strategy shall include recommendations, estimates of costs, and shall identify reasonable funding sources.

C. *Intergovernmental Opportunities*

The Plan shall address opportunities for enhancing intergovernmental cooperation between Long Beach, Pass Christian, and Harrison County. The Plan shall make recommendations for maximizing intergovernmental cooperation in the following areas at a minimum:

1. Retail development
2. Industrial development
3. Fire protection
4. Police protection
5. Recreation
6. Public Utilities
7. Others

D. *Annexation Analysis*

The Plan shall include a preliminary analysis of the need for annexation and shall recommend areas for further study. The annexation analysis shall use as a basis, the indicia of reasonableness of annexation established by the Mississippi Supreme Court.

XIII. Capital Improvements Plan

- A. Development of a five-year program that prioritizes capital improvement needs of the City, identifies various methods of financing these improvements, and provides a timetable for the improvements.

Alderman Bennett made motion seconded by Alderman Holder and unanimously carried to approve the Economic Development Administration Financial Assistance Award, committing \$300,000.00 match and authorizing the Mayor to execute documents, as follows:

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Mayor and Board of Aldermen**



U.S. DEPARTMENT OF COMMERCE
Economic Development Administration
ATLANTA REGIONAL OFFICE
Suite 1820
401 West Peachtree St., N.W.
Atlanta, Georgia 30308-3510

December 18, 2006

In reply refer to:
Investment No. 04-79-05870

The Honorable William Skellie
Mayor, City of Long Beach
645 Klondyke Road
Long Beach, Mississippi 39560-3502

Dear Mayor Skellie:

We are pleased to inform you that the Economic Development Administration (EDA) has approved a Financial Assistance Award in an amount not to exceed \$1,200,000 issued pursuant to your application for Federal assistance for water system improvements to increase the overall reliability and capability of the Long Beach municipal water system. The total project cost is \$1,500,000, which is based on the line item estimates contained in Attachment No. 1.

Enclosed are three signed copies of the Financial Assistance Award. Your agreement to the terms and conditions of the award should be indicated by the signature of your principal official on all of the signed copies of the Financial Assistance Award. Two of the executed copies should be returned to the Director, Atlanta Regional Office, Economic Development Administration, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308-3510.

You are cautioned not to make any commitments in reliance on this award, nor to enter into negotiations relative hereto, until you have carefully reviewed the terms and conditions and have determined that you are in compliance or that you can comply therewith. Any commitments or undertakings entered into prior to obtaining the approval of the Government in accordance with its terms and conditions will be at your own risk.

Sincerely,

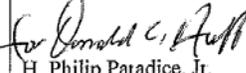
A handwritten signature in dark ink, appearing to read "H. Philip Paradise, Jr.", written over a printed name.

H Philip Paradise, Jr.
Acting Director, Atlanta Region

Enclosures: Form CD-450 Financial Assistance Award (3)
Exhibit A - Special Conditions
Form ED-508 Budget
EDA Standard Terms and Conditions

cc: Bobby Hunter, EDA
Leslie Newcomb, Southern Mississippi Planning and Development District

Minutes of December 19, 2006 Mayor and Board of Aldermen

<small>FORM CD-450 (REV 10-93) DAO 103-26</small> <p style="text-align: center;">U.S. DEPARTMENT OF COMMERCE</p> <p style="text-align: center;">FINANCIAL ASSISTANCE AWARD</p>		<input checked="" type="checkbox"/> GRANT AGREEMENT <input type="checkbox"/> COOPERATIVE AGREEMENT AWARD PERIOD From date of approval to 31 months after approval			
RECIPIENT NAME City of Long Beach		AWARD NUMBER 04-79-05870			
STREET ADDRESS 645 Klondyke Road		FEDERAL SHARE OF COST \$1,200,000			
CITY, STATE, ZIP CODE Long Beach, Mississippi 39560-3502		RECIPIENT SHARE OF COST \$ 300,000			
AUTHORITY 42 U.S.C. §3121, <i>et seq.</i> , as amended by the Economic Development Administration Reauthorization Act of 2004, Pub. L. 108-373, 118 Stat. 1756 (2004)		TOTAL ESTIMATED COST \$1,500,000			
CDDA NO. AND PROJECT TITLE 11.300 Public Works Program / Water System Improvements					
BUREAU	FUND	FCFY	PROJECT TASK	ORGANIZATION	OBJECT CLASS
20	40	07	0405870-000	04	4110
This Award approved by the Grants Officer is issued in triplicate and constitutes an obligation of Federal funding. By signing the three documents, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, two signed Award documents shall be returned to the Grants Officer and the third document shall be retained by the Recipient. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may declare this Award null and void.					
<input type="checkbox"/> Department of Commerce Financial Assistance Standard Terms and Conditions <input checked="" type="checkbox"/> Special Award Conditions <input checked="" type="checkbox"/> Line Item Budget <input type="checkbox"/> 15 CFR Part 14, Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations <input checked="" type="checkbox"/> 15 CFR Part 24, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments <input checked="" type="checkbox"/> OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations <input type="checkbox"/> OMB Circular A-122, Cost Principles for Nonprofit Organizations <input checked="" type="checkbox"/> OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments <input type="checkbox"/> OMB Circular A-21, Cost Principles for Educational Institutions <input type="checkbox"/> 48 CFR Part 31, Contract Cost Principles and Procedures <input checked="" type="checkbox"/> Other(s): <u>EDA Standard Terms and Conditions - Construction Program, dated March 1999</u>					
SIGNATURE OF DEPARTMENT OF COMMERCE GRANT OFFICER			TITLE		DATE
 H. Philip Paradise, Jr.			Acting Director, Atlanta Region		12/15/06
TYPED NAME AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL			TITLE		DATE
 William Skellie			Mayor, City of Long Beach		

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EXHIBIT "A"

U. S. DEPARTMENT OF COMMERCE
Economic Development Administration (EDA)

Public Works and Development Facilities

Investment No.: 04-79-05870

Recipient: City of Long Beach, Mississippi

SPECIAL AWARD CONDITIONS

1. PROJECT DEVELOPMENT TIME SCHEDULE: The Recipient agrees to the following Project development time schedule:

Time allowed after Receipt of Financial Assistance Award for:

Return of Executed Financial Assistance Award.....	30 days
Start of Construction.....	12 Months from Date of Grant Award
Construction Period.....	18 Months

Project Closeout - All Project closeout documents including final financial information and any required program reports shall be submitted to the Government not more than 90 days after the date the Recipient accepts the completed project from the contractor(s).

The Recipient shall pursue diligently the development of the Project so as to ensure completion within this time schedule. Moreover, the Recipient shall notify the Government in writing of any event, which could delay substantially the achievement of the Project within the prescribed time limits. The Recipient further acknowledges that failure to meet the development time schedule may result in the Government's taking action to terminate the Award in accordance with the regulations set forth at 15 CFR 24.43 (53 Fed. Reg. 8048-9, 8102, March 11, 1988).

2. GOALS FOR WOMEN AND MINORITIES IN CONSTRUCTION: Department of Labor regulations set forth in 41 CFR 60-4 establish goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all Federally assisted construction contracts in excess of \$10,000. The Recipient shall comply with these regulations and shall obtain compliance with 41 CFR 60-4 from contractors and subcontractors employed in the completion of the Project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 CFR 60-4. The goal for the participation of women in each trade area shall be as follows:

From April 1, 1981, until further notice: 69 percent

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Special Conditions
EXHIBIT "A"
Page 2

Investment No. 04-79-05870

All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 CFR 60-4.6, or any successor regulations, shall hereafter be incorporated by reference into these Special Award Conditions.

Goals for minority participation shall be as prescribed by Appendix B-80, Federal Register, Volume 45, No. 194, October 3, 1980, or subsequent publications. The Recipient shall include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" (or cause them to be included, if appropriate) in all Federally assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 CFR 60-4.6.

3. **AUDIT REQUIREMENTS:** Applicable audit requirements are contained in OMB Circular A-133. Any references to audit requirements contained in 15 CFR Part 29a and 15 CFR 29b in the terms and conditions governing this project are replaced by OMB Circular A-133.
4. **PERFORMANCE MEASURES:** The recipient agrees to report on program performance measures and program outcomes in such form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act of 1993. Performance measures and reporting requirements that apply to program activities funded by this investment will be provided in a separate GPRA information collection document. EDA will advise recipients in writing within a reasonable period prior to the time of submission of the reports, and in the event that there are any modifications in the performance measures.
5. **REPORT ON UNLIQUIDATED OBLIGATIONS:** All Recipients of an EDA grant award of more than \$100,000 whose grant has not been fully disbursed as of the end of each reporting period are required to submit a financial report to EDA annually on the status of un-reimbursed obligations. The report will provide information on the amount of allowable project expenses that have been incurred by the Recipient but not claimed for reimbursement as of the end of the reporting period. The report will be as of September 30 of each year and must be submitted annually until the final grant payment is made by EDA. The report shall be submitted to EDA no later than October 30 of each year. Noncompliance with this requirement will result in the suspension of EDA grant disbursements. Standard Form 269A, Financial Status Report, will be used for this purpose. Instructions for completing and filing the report will be furnished to the Recipient at least 60 days before the report is due.

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Special Conditions
EXHIBIT "A"
Page 3

Investment No. 04-79-05870

6. PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS GOVERNMENT CONTRACTORS LABOR RELATIONS ON FEDERAL AND FEDERALLY FUNDED CONSTRUCTION PROJECTS: Pursuant to E.O. 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federal Funded Construction Projects," unless the Project is exempted under section 5(c) of the order, bid specifications, project agreements, or other controlling documents for construction contracts awarded by Recipients of grants or cooperative agreements, or those of any construction manager acting on their behalf, shall not:
a) include any requirement or prohibition on Bidders, Offerors, Contractors, or Subcontractors about entering into or adhering to agreements with one or more labor organizations on the same or related construction Project(s); or b) otherwise discriminate against Bidders, Offerors, Contractors, or Subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction Project(s).
7. ENGINEERING CERTIFICATE/CERTIFICATE OF TITLE: The Recipient, prior to Solicitation of bids for construction of this Project, shall furnish to the Government an acceptable Engineering Certificate showing all lands, rights-of-way and easements necessary for construction of this Project along with an acceptable Certificate of Title on said lands, rights-of-way and easements showing good and merchantable title free of mortgages or other foreclosable liens.
8. CONSTRUCTION START: If significant construction (as determined by EDA) is not commenced within two years of approval of the project or by the date estimated for start of construction in the grant award (or the expiration of any extension granted in writing by EDA), whichever is later, the EDA grant will be automatically suspended and may be terminated if EDA determines, after consultation with the grant recipient, that construction to completion cannot reasonably be expected to proceed promptly and expeditiously.
9. AWARD DISBURSEMENTS: EDA will make award payments using the Department of Treasury's Automated Standard Application for Payments (ASAP) system. The recipient is required to furnish documentation as required by ASAP including but not limited to Recipient and Requestor Identification Numbers. Complete information concerning the ASAP system may be obtained by visiting <http://www.fms.treas.gov/asap>.
10. ARCHITECT/ENGINEER AGREEMENT: Prior to the disbursement of funds by EDA, the Recipient shall submit to the Government for approval an Architect/Engineer agreement that meets the requirements of Section I of the EDA publication, "Requirements for Approved Projects," as well as the competitive procurement standards of 15 CFR Part 24 or 15 CFR Part 14, as applicable. The fee for basic Architect/Engineer services shall be a lump sum or an agreed maximum and no part of the fees for other services shall be based upon a cost-plus-a-percentage-of-cost or a cost using a multiplier.

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Special Conditions
EXHIBIT "A"
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Investment No. 04-79-05870

11. ACCEPTANCE INSPECTION, WATER STORAGE TANK: Recipient shall provide to the government a statement from the project design engineer that a final acceptance test has been conducted on the welded steel tank and that the test indicates that welds are in compliance with Section 8.5 of American Water Works Association (AWWA) D-100-96 Standard for Welded Steel Tanks for Water Storage. Testing shall be performed by a testing agency different from that used by the contractor constructing the tank and the testing agency shall be procured by the grant recipient's
12. ENVIRONMENTAL: Prior to invitation for bids, the Recipient shall furnish evidence satisfactory to the Government that the U.S. Fish and Wildlife Service (FWS) has reviewed the plans and specifications for this investment and issued comments.

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Form ED-508
(Rev 3/89)

ATTACHMENT NO 1

U.S. DEPARTMENT OF COMMERCE ECONOMIC DEVELOPMENT ADMINISTRATION

PUBLIC WORKS PROJECT COST CLASSIFICATIONS

EDA Investment No. 04-79-05870	State: Mississippi	County: Harrison
<u>Cost Classification</u>	<u>Proposed</u>	<u>Approved</u>
Administrative and legal expenses	\$ 25,000	\$ 25,000
Land, structures, and rights-of-way appraisals, etc.	500	500
Relocation expenses and payments (Cost incidental to transfer of titles)	500	500
Architectural and engineering fees	94,528	94,500
Other architectural and engineering fees	4,000	4,000
Project inspection fees and audit	78,712	78,740
Site Work		
Demolition and removal		
Construction	1,181,600	1,181,600
Equipment		
Miscellaneous		
Contingencies	115,160	115,160
TOTAL PROJECT COSTS	\$1,500,000	\$1,500,000

Remarks:

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Exhibit "B"

U. S. DEPARTMENT OF COMMERCE

**ECONOMIC DEVELOPMENT ADMINISTRATION
STANDARD TERMS AND CONDITIONS**



**Title II
Public Works and Development Facilities
and
Economic Adjustment Construction Components**

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ECONOMIC DEVELOPMENT ADMINISTRATION STANDARD TERMS AND CONDITIONS

Title II Public Works and Development Facilities and Title II Economic Adjustment Construction Components

For the purpose of these Standard Terms and Conditions, unless the context otherwise requires, (a) the term "Government" refers to the Economic Development Administration (EDA); (b) the term "Recipient" refers to the recipient of Government funds under the Agreement to which this attachment is made a part; (c) the term "Department" and "DoC" refer to the Department of Commerce; and (d) the term "regional office" refers to the appropriate Regional Office of the Economic Development Administration, i.e., the office administering the award. The Public Works and Economic Development Act of 1965, and its amendments (42 U.S.C. 3121, et seq.), including the comprehensive amendment of the Economic Development Reform Act of 1998 (P.L. 105-393) are hereinafter referred to as PWEDA.

A. Statutory and Executive Order Requirements

Some of the terms and conditions herein contain, by reference or substance, a summary of the pertinent statutes, or regulations published in the Federal Register or Code of Federal Regulations (CFR), Executive Orders (EO) or OMB Circulars (Circular). To the extent that it is a summary, such term or condition is not in derogation of, or an amendment to, any such statute, regulation, EO or Circular. All statutes, regulations, EOs or Circulars whether or not referenced herein are to be applied as amended on the date they are administered.

- 1 The Recipient and any subrecipients must, in addition to the Assurances made as a part of the application, comply and require each of its contractors and subcontractors employed in the completion of the project to comply, with all applicable Federal, state, territorial, and local laws, and in particular the following Federal Public Laws, the regulations issued there under, and Executive Orders and Office of Management and Budget (OMB) Circulars:
 - a. The Public Works and Economic Development Act of 1965, P.L. 89-136, as amended (42 U.S.C. 3121, et seq.), including the comprehensive amendment of the Economic Development Reform Act of 1998 (P.L. 105-393), and regulations in 13 CFR, Chapter III;
 - b. The Davis-Bacon Act as amended (40 U.S.C. 276a to 276a (5); 42 U.S.C. 3212);
 - c. The Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333);
 - d. The Copeland "Anti-Kickback" Act, as amended (40 U.S.C. 276(c); (18 U.S.C. 874);
 - e. The Clean Air Act, as amended (42 U.S.C. 7401, et seq.);

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- f. The Clean Water Act (The Federal Water Pollution Control Act, as amended) (33 U.S.C. 1251, et seq.);
- g. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.);
- h. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, et seq.);
- i. The Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300f;j26);
- j. The Energy Conservation and Production Act (applicable to construction of new residential and commercial structures) (42 U.S.C. 6801, et seq.);
- k. The Wild and Scenic Rivers Act, as amended, P.L. 90-542, (16 U.S.C. 1271, et seq.);
- l. The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469a-1, et seq.);
- m. Executive Order 11990, Protection of Wetlands, May 24, 1977;
- n. P.L. 90-480, as amended (42 U.S.C. 4151, et seq.), and the regulations issued thereunder, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or that may result in the employment of handicapped persons therein;
- o. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended (42 U.S.C. 4601, et seq.); and 15 CFR Part 11;
- p. The Flood Disaster Protection Act of 1973, P.L. 93-234, as amended (42 U.S.C. 4002, et seq.), and regulations and guidelines issued thereunder by the Federal Emergency Management Administration (FEMA) or the Economic Development Administration;
- q. Executive Order 11988, Floodplain Management, May 24, 1977, and regulations and guidelines issued thereunder by the Economic Development Administration;
- r. The National Environmental Policy Act of 1969, P.L. 91-190, as amended, and 42 U.S.C. Sec 4321 et seq.;
- s. The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), P.L. 91-695, as amended;
- t. The Resource Conservation and Recovery Act of 1976, as amended, P.L. 94-580, (42 U.S.C. 6901);

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- u. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.) and the Superfund Amendments and Reauthorization Act of 1986, P.L. 99-499, as amended;
 - v. The Drug-Free Workplace Act of 1988, P.L. 100-690, Title V, Subtitle D, and 15 CFR Part 26 (55 F.R. 21678, May 25, 1990) for projects approved on or after March 18, 1989;
 - w. Restrictions on Lobbying, section 319 of P.L. 101-121, 15 CFR Part 28, (55 F.R. 6736-6748, 2/26/90);
 - x. Executive Order 12549, Debarment and Suspension, and 15 CFR Part 26, Governmentwide Debarment and Suspension (Nonprocurement);
 - y. American Indian Religious Freedom Act, P.L. 96-341 (42 U.S.C. Sec 1996);
 - z. Environmental Quality Improvement Act of 1970, P.L. 91-244, as amended (42 U.S.C. Sec 4371-4374);
 - aa. Executive Order 12088, Federal Compliance with Pollution Control Standards;
 - bb. Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended;
 - cc. Executive Order 11593, Protection and Enhancement of the Cultural Environment;
 - dd. Farmland Protection Policy Act, P.L. 97-98, as amended (7 U.S.C. 4201 et seq.);
 - ee. Fish and Wildlife Coordination Act, P.L. 92-522, as amended (16 U.S.C. Sec 661 et seq.);
 - ff. National Historic Preservation Act of 1966, P.L. 89-665, as amended and the Advisory Council on Historic Preservation Guidelines (16 U.S.C. Sec 470 et seq.);
 - gg. Noise Control Act, P.L. 92-574, as amended (42 U.S.C. Sec 4901 et seq.); and
 - hh. Environmental Justice in Minority Populations and Low Income Populations, Executive Order 12898 (February 11, 1994).
2. The Recipient agrees that, for the expected useful life of the facility assisted with this award, the project will be properly and efficiently administered, operated and maintained, as required by Section 504 of P.L. 105-393 (42 U.S.C. 3194), for the purpose authorized by this award and in accordance with the terms, conditions, requirements and provisions of the award. If the Government determines, at any time during the useful life of the facility, that the project is not being properly and efficiently administered, operated and maintained, the Government may terminate the award for cause and require the Recipient to repay the award.

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3. This award is subject to P.L. 101-510, enacted November 5, 1990, section 1405, amending subchapter IV of Chapter 15, Title 31, United States Code, which prescribes the rules for determining the availability of appropriations. Accordingly, the grant funds obligated for this project will expire in five years from the end of the fiscal year of the grant award
4. Pursuant to EO 12889, the DoC is required to notify the owner of any valid patent covering technology whenever the DoC or its financial assistance Recipients, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the Recipient uses or has used patented technology under this Award without a license or permission from the owner, the Recipient must notify the DoC Patent Counsel at the following address, with a copy to EDA:

Department of Commerce
Office of Chief Counsel for Technology
Patent Counsel
14th Street and Constitution Avenue, NW, Room H-4613
Washington, DC 20230

The notification should include the award number, the name of the DoC awarding agency, a copy of the patent, a description of how the patented technology was used, and the name of the Recipient contact, including an address and telephone number.

5. For use for new building construction projects:

The Recipient is aware of and intends to comply with one of the three model codes outlined by the Committee on Seismic Safety in Construction (ICSSC):

1991 ICBO Uniform Building Code 1992 Supplement to the BOCA National Building Code
1991 Amendments to the SBCC Standard Building Code

6. Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this Award.
7. The Recipient must furnish evidence satisfactory in form or substance to the Government that title to real property (other than property of the United States and those limited cases as provided in 13 CFR 314.7(c)), is vested in the Recipient and that such easements, rights-of-way, state permits, or long-term leases, as are required for the project have been or will be obtained within an acceptable time as determined by the Government. All liens, mortgages, other encumbrances, reservations, reversionary interests, or other restrictions on title or the Recipient's interest in the property must be disclosed to EDA. No such encumbrances or restrictions will be acceptable if, as determined by the Government, the encumbrance or restriction will interfere with the construction, use, operation or maintenance of the project during its estimated useful life or except when a waiver has been granted by the Assistant Secretary or his/her designee.

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B. FINANCIAL REQUIREMENTS

1. Financial Reports

- a. The Recipient must submit an "SF-271, Outlay Report and Request for Reimbursement" (ED-113) no more frequently than quarterly to report outlays. A final SF-271 is to be submitted within 90 days after the expiration date of the award.
- b. The Recipient must submit a "Federal Cash Transactions Report" (SF-272) for each award where funds are advanced to Recipients. The SF-272 is due 15 working days following the end of each calendar quarter for awards under \$1 million; or 15 working days following the end of each month for awards over \$1 million; or unless otherwise specified in a special award condition.
- c. All Recipients of an EDA grant award of more than \$100,000 whose grant has not been fully disbursed as of the end of each reporting period are required to submit a financial report to EDA annually on the status of unreimbursed obligations. The report will provide information on the amount of allowable project expenses that have been incurred by the Recipient but not claimed for reimbursement as of the end of the reporting period. The report will be as of September 30 of each year and must be submitted annually until the final grant payment is made by EDA. The report will be submitted to EDA no later than October 30 of each year. Noncompliance with this requirement will result in the suspension of EDA grant disbursements. Standard Form 269A, Financial Status Report, will be used for this purpose. Instructions for completing and filing the report will be furnished to the Recipient at least 60 days before the report is due.
- d. All financial reports are to be submitted to the regional office.

2. Award Payments

- a. Unless otherwise specified in a special award condition, the method of payment for the award will be through advance or reimbursement.
- b. The Recipient must submit an "Outlay Report and Request for Reimbursement, SF-271" (ED-113) no more frequently than monthly to request payment. The SF-271 is to be submitted to the regional office.
- c. Payments will be made via electronic transfer, which transfers funds directly to a Recipient's bank account. The Recipient must complete a payment information form and return it to the regional office. The award number must be included on the payment information form.
- d. Advances will be limited to the minimum amounts necessary to meet immediate disbursement needs. Advanced funds not disbursed in a timely manner will be promptly returned to EDA. Advances will be approved for periods not to exceed 30 days. The regional office determines the appropriate method of payment. If a Recipient demonstrates

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an unwillingness or inability to establish procedures which will minimize the time elapsing between the transfer of funds and disbursement or if the Recipient otherwise fails to continue to qualify for the advance method payment, the regional office may change the method of payment to reimbursement only.

3. Federal and Non-Federal Sharing

- a. The EDA participation in total eligible project costs will be limited to the EDA grant amount or the EDA share of total allowable project costs based on the area's grant rate eligibility at the time of award, whichever is less.
- b. The non-Federal share, whether cash or in-kind, is expected to be paid out at the same general rate as the Federal share and must be committed at the time of Award and available over the life of the Award. Cash or in-kind contributions, fairly evaluated by EDA, including contributions of space, equipment, and services, may provide the non-Federal share of the project cost. In-kind contributions must be eligible project costs and meet applicable Federal cost principles and uniform administrative requirements. Exceptions to this requirement may be granted by EDA based on sufficient documentation demonstrating previously determined plans for or later commitment of cash or in-kind contributions.

4. Budget Changes and Transfer of Funds Among Categories

- a. Requests for budget changes to the approved estimated budget in accordance with the provision noted below must be submitted to the regional office for review and recommendation. EDA will make the final determination on such requests and notify the Recipient in writing.
- b. Transfer of funds by the Recipient among direct cost categories are permitted with the written approval of EDA. Transfers will not be permitted if such transfers would cause the Federal grant, or part thereof, to be used for purposes other than those intended.
- c. The addition of a new line item to the approved budget must be approved in writing by EDA. Such an addition presents a rebuttable presumption of change of scope.
- d. The Recipient is not authorized at any time to transfer amounts budgeted for direct costs to the indirect costs line item and vice versa, except with the written prior approval of EDA.

5. Indirect Costs

- a. Indirect costs will not be allowable charges against the award unless specifically included as a line item in the approved budget incorporated into the award.
- b. Excess indirect costs may not be used to offset unallowable direct costs.

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- c. If the Recipient has not previously established an indirect cost rate with a Federal agency, the negotiation and approval of a rate is subject to the procedures in the applicable cost principles and the following subparagraphs:
- (1) The Office of Inspector General (OIG) is authorized to negotiate indirect cost rates on behalf of EDA for those organizations for which DoC is the cognizant agency. The OIG will negotiate only fixed rates. The Recipient must submit to the OIG within 90 days of the award start date, documentation (indirect cost proposal, cost allocation plan, etc.) necessary to establish such rates. The Recipient must provide the EDA regional office with a copy of the transmittal letter to the OIG.
 - (2) When an oversight or cognizant Federal agency other than DoC has responsibility for establishing an indirect cost rate, the Recipient must submit to that oversight or cognizant Grants Officer within 90 days of the award start date the documentation (indirect cost proposal, cost allocation plan, etc.) necessary to establish such rates. The Recipient must provide both the regional office and the DoC OIG with a copy of the transmittal letter to the cognizant Grants Officer.
 - (3) If the Recipient fails to submit the required documentation to the OIG or other oversight or cognizant Grants Officer within 90 days of the award start date, the EDA regional office will amend the award to preclude the recovery of any indirect costs under the award. If the DoC OIG or EDA determines there is a finding of good and sufficient cause to excuse the Recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by EDA.
 - (4) Regardless of any approved indirect cost rate applicable to the award at the time of award, the maximum dollar amount of allocable indirect costs for which EDA will reimburse the Recipient shall be the lesser of:
 - (a) The line item amount for the Federal share of indirect costs contained in the approved budget of the award; or
 - (b) The Federal share of the total allocable indirect costs of the award based on the negotiated rate with the cognizant Grants Officer as established by audit or negotiation.

6. Incurring Costs or Obligating Federal Funds Beyond the Expiration Date

- a. The Recipient must not incur costs or obligate funds for any purpose pertaining to the operation of the project, program or activities beyond the expiration date stipulated in the award. The only costs, which are authorized for a period of up to 90 days following the award expiration date, are those strictly associated with closeout activities. Closeout activities are limited to the preparation of final reports.

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- b. Any extension of the award period can only be authorized by the EDA Assistant Secretary or his/her designee. Verbal or written assurances of funding from other than EDA's Assistant Secretary or his/her designee does not constitute authority to obligate funds for programmatic activities beyond the expiration date.
- c. EDA has no obligation to provide any additional funding

7. Tax Refunds

Refunds of FICA/FUTA taxes received by the Recipient during or after the award period must be refunded or credited to EDA where the benefits were financed with Federal funds under the award. The Recipient agrees to contact the regional office immediately upon receipt of these refunds. The Recipient further agrees to refund portions of FICA/FUTA taxes determined to belong to the Federal Government, including refunds received after the expiration of the award.

8. Incurring Costs Prior to Award

Recipients that incurred any project costs prior to a grant award being made by EDA did so at the risk of not being reimbursed; however, EDA may, at its sole discretion, pay for project costs incurred prior to grant award. Such costs must be included in the approved project budget and be allowable costs under Federal cost principles and the grant award.

C. PROGRAMMATIC REQUIREMENTS

1. Reporting Requirements

- a. Financial and performance (technical) reports must be submitted in accordance with the procedures in 15 CFR Part 24 or 15 CFR Part 14, as applicable, and the schedule indicated below. Failure to submit required reports in a timely manner may result in the withholding of payments under this award or deferring the processing of new awards, amendments, or supplemental funding pending the receipt of the overdue report(s), and/or establishing an accounts receivable for the difference between the total Federal share of outlays last reported and the amount disbursed.
- b. Project performance reports are to be submitted for each calendar quarter. The project performance report will be due not later than January 15, April 15, July 15 and October 15 for the immediate previous quarter. The report submission dates are to be no more than 30 days after the due date, with a due date of 90 days after expiration of the award. This reporting requirement begins with the Recipient's acceptance of the award and ends when the final project disbursement is approved. The project performance report should be submitted to the regional office.

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- c. Recipients of awards which involve both Federal financial assistance valued at \$500,000 or more and procurement of supplies, equipment, construction, or services are required to submit the SF-334, "Minority Business Enterprise/Women Business Enterprise Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance." Reports are to be submitted on a quarterly basis for the period ending March 31, June 30, September 30, and December 31. Reports are due no later than thirty (30) days following the end of the reporting period during which any procurement in excess of \$10,000 is executed under this award. The report should be submitted in duplicate to the regional office. Any questions concerning this report should be directed to the regional office.
- d. Performance Measures: The Recipient agrees to report on program performance and project outcomes in such form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act of 1993 and P. L. 105-393. The performance measures that apply to this project are included with and made a part of the grant award package. EDA will advise the Recipient in writing, within a reasonable period prior to time of submission, in the event there are any modifications in the performance measures.

2 Unsatisfactory Performance

- a. Recipient will comply with the administrative, procedural and policy requirements contained in applicable EDA regulations in effect at time of their application
- b. The Government reserves the right to suspend the award and withhold further payments, or prohibit the Recipient from incurring additional obligations, pending corrective action by the Recipient or a decision by the Government to terminate the award unless the project is completed to the satisfaction of the Government
- c. The Government has the right to terminate for cause all or any part of its obligation hereunder if:
 - (1) Any representation made by the Recipient to the Government in connection with the application for Government assistance is incorrect or incomplete in any material respect.
 - (2) The intent and purpose and/or the economic feasibility of the project is changed substantially so as to affect significantly the accomplishment of the project as intended.
 - (3) The Recipient has violated commitments it made in its application and supporting documents or has violated any of the terms and conditions of this award.
 - (4) Any official, employee or agent, member of immediate family, partner, or an organization which employs or is about to employ any of the above of the Recipient becomes directly interested financially in the acquisition of any materials or equipment, or in any construction for the project, or in the furnishing of any service to or in connection with the project, or any benefit arising there from.

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- (5) The Recipient fails to report immediately to the Government any change of authorized representative(s) acting in lieu of or on behalf of the Recipient.
- d The obligations hereunder may be terminated for convenience if:
- (1) Both the Recipient and the Government agree that continuation of the project would not produce beneficial results commensurate with the further expenditure of funds.
 - (2) Both the Recipient and the Government agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated.
 - (3) The Recipient agrees to incur no new obligations for the terminated portion after the effective date and to cancel or satisfy all outstanding obligations as of that date.
- e. The Recipient has the sole authority and full responsibility, without recourse to the Federal Government or any of its agencies, for the settlement and satisfaction of all contractual and administrative issues arising out of this award.
- f. The Recipient hereby agrees that the Government may, at its option, withhold disbursement of any award funds if the Government learns or has knowledge that the Recipient has failed to comply in any manner with any provision of the award. The Government will withhold funds until the violation or violations have been corrected to the Government's satisfaction. The Recipient further agrees to reimburse the Government for any ineligible costs, which were paid from award funds, or if the Recipient fails to reimburse the Government, the Government shall have the right to offset the amount of such ineligible costs from any undisbursed award funds held by the Government. The Recipient agrees to repay the Government for all ineligible costs incurred in connection with the project and paid from the award including, but not limited to, those costs determined to be ineligible if the Government learns of any award violations after all award funds have been disbursed.
- g. The Recipient hereby agrees, in the event a beneficiary of the EDA assisted project fails to comply in any manner with certifications, assurances, or agreements that such beneficiary has entered into in accordance with EDA requirements, that the Recipient will reimburse the Government the award amount or an amount to be determined by the Government pursuant to 13 CFR Part 314.
- Where the Government determines that the failure of the beneficiary to comply with EDA requirements affects a portion of the property benefited by the award, the Recipient will reimburse the Government proportionately.
- h. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the Grants Officer may, in addition to imposing any of the special conditions outlined in 15 CFR §14.14, take one or more of the following actions, as appropriate in the circumstances:

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- (1) Temporarily withhold payments of funds pending correction of the deficiency by the recipient or more severe enforcement action by the Grants Officer after coordination with the DoC operating unit.
- (2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (3) Wholly or partly suspend or terminate the current award.
- (4) Withhold further awards for the project or program.
- (5) Take other remedies that may be legally available

3. Programmatic Changes

- a. The Recipient must not make any programmatic changes to the award without prior written approval by EDA.
- b. Any requests by the Recipient for programmatic changes must be submitted to EDA for review and approval. The Assistant Secretary or his/her designee will make the final determination and notify the Recipient in writing.

4. Other Federal Awards with Similar Programmatic Activities

The Recipient must immediately provide written notification to EDA in the event that, subsequent to receipt of the EDA award, other Federal financial assistance is received relative to the scope of work of the EDA award.

5. Program Income

- a. For projects that create long-term rental revenue, i.e., buildings or real property constructed or improved for the purpose of renting or leasing space (e.g., building sites), the Recipient agrees to use such income generated from the rental or lease of the project facility(ies), in the following order of priority:
 - (1) Administration, operation, maintenance and repair of the project facilities for their useful life (as determined by EDA) in a manner consistent with good property management practice and in accord with the established building codes. This includes, where applicable, repayment of indebtedness resulting from any legal encumbrance (e.g., approved mortgage) on the EDA assisted facility.
 - (2) Economic development activities that are authorized for support by EDA; provided such activities are within the EDA eligible area.

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The Recipient must immediately provide written notification to EDA in the event that, subsequent to receipt of the EDA award, other Federal financial assistance is received relative to the scope of work of the EDA award.

5. Program Income

- a. For projects that create long-term rental revenue, i.e., buildings or real property constructed or improved for the purpose of renting or leasing space (e.g., building sites), the Recipient agrees to use such income generated from the rental or lease of the project facility(ies), in the following order of priority:
 - (1) Administration, operation, maintenance and repair of the project facilities for their useful life (as determined by EDA) in a manner consistent with good property management practice and in accord with the established building codes. This includes, where applicable, repayment of indebtedness resulting from any legal encumbrance (e.g., approved mortgage) on the EDA assisted facility.
 - (2) Economic development activities that are authorized for support by EDA; provided such activities are within the EDA eligible area.

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10. Alienation Restriction

Notwithstanding any other provision of the award, the Recipient will not transfer, pledge, mortgage, or otherwise assign the award, or any interest therein, or any claim arising there under, to any party or parties, bank trust companies, or other financing or financial institutions.

11. Taxpayer Identification Number Requirement

A Recipient classified for tax purposes as an individual, partnership, proprietorship, or medical corporation, is required to submit a taxpayer identification number (TIN) (either social security number or employer identification number as applicable) on Form W-9, "Payer's Request for Taxpayer Identification Number." Tax-exempt organizations and corporations (with the exception of medical corporations) are excluded from this requirement. Form W-9 is to be submitted to the regional office within 60 days of the award start date. The TIN will be provided to the IRS by EDA on Form 1099-G, "Statement for Recipients of Certain Government Payments." Applicable Recipients who either fail to provide their TIN or provide an incorrect TIN may have funding suspended until the requirement is met. Disclosure of a Recipient's TIN is mandatory for Federal income tax reporting purposes under the authority of 26 U.S.C., Section 6011 and 6109(d), and 26 CFR, Section 301.6109-1. This is to ensure the accuracy of income computation by IRS. This information will be used to identify an individual who is compensated with DoC funds or paid interest under the Prompt Payment Act.

D. NONDISCRIMINATION REQUIREMENTS

No person in the United States can, on the ground of race, color, national origin, handicap, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The Recipient agrees to comply with the nondiscrimination requirements below and any statutes, regulations, and EOs whether or not referenced, herein to be applied on the date they are administered:

1. Statutory Provisions

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. P.L. 105-393§ 2000d et seq.) and DoC implementing regulations published at 15 CFR Part 8 which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;
- b. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
- c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) and DoC implementing regulations published at 15 CFR Part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance;

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- d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) and DoC implementing regulations published at 15 CFR Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- e. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation; and
- f. Any other nondiscrimination provisions of statutory law.

2. Other Provisions

- a. Executive Orders 11114, 11246, 11375, and 12086;
- b. Construction Contractors Affirmative Action Requirements, 41 CFR Part 60-4; and
- c. 13 CFR Part 317, civil rights requirements for Recipients.

E. AUDITS

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. I, section 1 et seq., an audit of the award may be conducted at any time. The Inspector General of the DoC, or any of his or her duly authorized representatives, has access to any pertinent books, documents, papers and records of the Recipient, whether written, printed, recorded, produced or reproduced by any mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts or other examinations as authorized by law. When the OIG requires a project audit, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with the DoC, or any other Federal, state or local audit entity.

1. Organization-Wide, Program Specific, and Project Audits

- a. Organization-wide or program-specific audits will be performed in accordance with the Single Audit Act Amendments of 1996, as implemented by OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Recipients that are subject to the provisions of OMB Circular A-133 and that expend \$300,000 or more in a year in Federal awards will have an audit performed in accordance with the requirements contained in OMB Circular A-133. Additionally, when required under a special award condition, a project audit will be performed in accordance with Federal Government auditing standards.
- b. The Recipient must submit copies of audits to each Grants Officer that directly provides funds. Audits must be submitted to the DoC OIG at the following address with a copy of the transmittal letter to the EDA regional office:

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Office of Inspector General
U.S. Department of Commerce
Atlanta Regional Office of Audits
401 West Peachtree, NW, Suite 2742
Atlanta, Georgia 30308

- c. Recipients expending Federal awards over \$300,000 a year and having audits conducted in accordance with OMB Circular A-133 must also submit a copy of organization-wide or program specific audits to the Bureau of the Census, which has been designated by OMB as a central clearinghouse. The address is:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

2. Audit Resolution Process

- a. An audit of the award may result in the disallowance of costs incurred by the Recipient and the establishment of a debt (account receivable) due EDA. For this reason, the Recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence whenever audit results are disputed.
- b. A Recipient whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:
- (1) Unless the Inspector General determines otherwise, the Recipient has 30 days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.
 - (2) The Recipient has 30 days from the date of the transmittal of the final audit report to submit written comments and documentary evidence. There will be no extension of this deadline.
 - (3) EDA will review the documentary evidence submitted by the Recipient and notify the Recipient of the results in an Audit Resolution Determination Letter. The Recipient has 30 days from the date of receipt of the Audit Resolution Determination Letter to submit a written appeal. There will be no extension of this deadline. The appeal is the last opportunity for the Recipient to submit written comments and documentary evidence that dispute the validity of the audit resolution determination. In addition, an appeal does not preclude the Recipient's obligation to pay a debt that may be established nor does the appeal preclude the accrual of interest on a debt.

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- (4) EDA will review the Recipient's appeal and notify the Recipient of the results in an Appeal Determination Letter. After the opportunity to appeal has expired or after the appeal determination has been rendered, EDA will not accept any further documentary evidence from the Recipient. There will be no other administrative appeals available in EDA.

F. DEBTS

1. Payment of Debts Owed the Federal Government

Any debts determined to be owed, the Federal Government must be paid promptly by the Recipient. A debt will be considered delinquent if it is not paid within 15 days of the due date. Failure to pay a debt by the due date shall result in the imposition of late payment charges as noted below. In addition, failure to pay the debt or establish a repayment agreement by the due date will also result in the referral of the debt for collection action and may result in DoC taking further action as specified in the standard term and condition entitled "Unsatisfactory Performance." The Recipient may also be suspended or debarred from further Federal financial and non-financial assistance and benefits, as provided in 15 CFR Part 26, "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)" until the debt has been paid in full or until a repayment agreement has been approved and payments are made in accordance with the agreement. Payment of a debt may not come from other Federally sponsored programs. Verification that other Federal funds have not been used will be made during future program visits and audits.

2. Late Payment Charges

- a. An interest charge will be assessed on the delinquent debt (over 15 days) as established by the Debt Collection Act of 1982, as amended. The minimum annual interest rate to be assessed is the Department of the Treasury's Current Value of Funds Rate. This rate is published in the Federal Register by the Department of the Treasury. The assessed rate remains fixed for the duration of the indebtedness.
- b. A penalty charge will be assessed on any portion of a debt that is delinquent for more than 90 days, although the charge will accrue and be assessed from the date the debt became delinquent.
- c. An administrative charge will be assessed to cover processing and handling the amount due.
- d. State and local governments are not subject to penalty and administrative charges.

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G. NAME CHECK

A name check review must be performed by the OIG on key individuals associated with nonprofit organizations, unless an exemption has been authorized by the Inspector General. Both officials of state and local governments and officials of accredited colleges and universities who are acting on behalf of their respective entities in applying for assistance are exempt from the name check requirement. In addition, all elected officials of state and local governments who are serving in ex-officio capacities when applying for assistance are exempt.

1. Results of Name Check

EDA reserves the right to take any of the actions described in G 2 below, if any of the following occurs as a result of the name check review:

- a. A key individual fails to submit the required form "Identification - Applicant for Funding Assistance" (CD-346).
- b. A key individual made an incorrect statement or omitted a material fact on the CD-346; or
- c. The name check reveals significant adverse findings that reflect on the business integrity or responsibility of the Recipient and/or key individual.

2. Action(s) Taken as a Result of Name Check Review

If any situation noted in G.1. above occurs, EDA, at its discretion, may take one or more of the following actions:

- a. Consider termination for cause of the award;
- b. Require the removal of any key individual from association with the management of and/or implementation of the award; and/or
- c. Make appropriate provisions or revisions at EDA's discretion with respect to the method of payment and/or financial reporting requirements.

H. LOBBYING RESTRICTIONS

1. Statutory Provisions

The Recipient must comply with the provisions of Section 319 of P.L. 101-121, which added Section 1352 to Chapter 13 of Title 31 of the United States Code, and DoC implementing regulations published at 15 CFR Part 28, "New Restrictions on Lobbying." These provisions generally prohibit the use of Federal funds for lobbying the Executive or Legislative Branches of the Federal government in connection with the award, and require the disclosure of the use of non-Federal funds for lobbying.

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2. Disclosure of Lobbying Activities

The Recipient receiving in excess of \$100,000 in Federal funding must submit a completed "Disclosure of Lobbying Activities" (SF-LLL) regarding the use of non-Federal funds for lobbying. The SF-LLL must be submitted within 30 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The Recipient must submit the SF-LLLs, including those received from subrecipients, contractors, and subcontractors, to the regional office.

An Indian tribe or organization that is seeking an exclusion from Certification and Disclosure requirements must provide (preferably in an attorney's opinion) EDA with the citation of the provision or provisions of Federal law upon which it relies to conduct lobbying activities that would otherwise be subject to the above provisions.

3. Subaward, Contract, and Subcontract

a. Applicability of Award Provisions to Subrecipients

The Recipient must require all subrecipients, including lower tier subrecipients, under the award to comply with the provisions of the award including applicable cost principles, administrative, and audit requirements.

b. Applicability of Provisions to Subawards, Contracts, and Subcontracts

- (1) The Recipient must include the following notice in each request for applications or bids:

Applicants/bidders for a lower tier covered transaction (except for goods and services under the \$100,000 small purchase threshold and where the lower tier Recipient will have no critical influence on or substantive control over the award) are subject to 15 CFR Part 26, Subparts A through E, Governmentwide Debarment and Suspension (Nonprocurement). In addition, applicants/bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to 15 CFR Part 28, "New Restrictions on Lobbying." Applicants/bidders should familiarize themselves with these provisions, including the certification requirements. Therefore, applications for a lower tier covered transaction must include a "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions and Lobbying" (CD-512) completed without modification.

- (2) The Recipient must include a statement in all lower tier covered transactions (subawards, contracts, and subcontracts), that the award is subject to Executive Order 12549, "Debarment and Suspension" and DoC implementing regulations published at 15 CFR Part 26, Subparts A through E, "Governmentwide Debarment and Suspension (Nonprocurement)."

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- (3) The Recipient must include a statement in all lower tier covered transactions (subawards, contracts, and subcontracts) exceeding \$100,000 in Federal funds, that the subaward, contract, or subcontract is subject to Section 319 of Public Law 101-121, which added Section 1352, regarding lobbying restrictions, to Chapter 13 of Title 31 of the United States Code as implemented at 15 CFR Part 28, "New Restrictions on Lobbying." The Recipient must further require the subrecipient, contractor, or subcontractor to submit a completed "Disclosure of Lobbying Activities" (SF-LLL) regarding the use of non-Federal funds for lobbying. The SF-LLL must be submitted within 15 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The SF-LLL must be submitted from tier to tier until received by the Recipient. The Recipient must submit all disclosure forms received, including those that report lobbying activity on its own behalf, to the regional office within 30 days following the end of the calendar quarter.

I. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE

EDA encourages Recipients to utilize minority and women-owned firms and enterprises in contracts awarded under financial assistance awards. The Minority Business Development Agency will assist Recipients in matching qualified minority and women-owned enterprises with contract opportunities. For further information contact:

U S. Department of Commerce
Minority Business Development Agency
Herbert C. Hoover Building
14th Street and Constitution Avenue, NW
Washington, D.C. 20230

J. SUBAWARD AND/OR CONTRACT TO A FEDERAL AGENCY

1. The Recipient, subrecipient, contractor, and/or subcontractor must not sub-grant or sub-contract any part of the approved project to any agency of the DoC and/or other Federal department, agency or instrumentality, without the prior written approval of EDA.
2. Requests for approval of such action must be submitted to the regional office which will review and make the final determination with the concurrence of legal counsel of EDA and legal counsel of the other Federal department, agency or instrumentality receiving the subaward and/or contract. The Government will notify the Recipient in writing of the final determination

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K. PROPERTY MANAGEMENT

1. Standards

The Recipient must comply with the pertinent property management standards as stipulated in the applicable uniform administrative requirements, and 13 CFR Part 314. Any inventory listings stipulated under the applicable uniform administrative requirements must be submitted on the "Report of Government Property in Possession of Contractor" (CD-281). The CD-281 must be submitted in duplicate (an original and one copy) to the regional office.

2. Retention of Title

- a. The Government determines who retains title to all nonexpendable personal property in accordance with 15 CFR Part 24 or 15 CFR Part 14 as applicable. Use, management, and disposition of the property will be in accordance with the applicable rules at 15 CFR Part 24 or 14 and EDA regulations at 13 CFR Part 314.
- b. Title to real property (whether acquired partly or wholly with Federal funds) will vest with the Recipient subject to the condition that the Recipient uses the real property for the authorized purpose of the project.

3. Disposal of Real Property

- a. When EDA and the Recipient determine that property acquired or improved in whole or in part with grant assistance is no longer needed for the purpose of the original project, the Recipient must obtain prior approval from the Government for the use of the real property in other Federal grant programs, or programs that have purposes consistent with those authorized for support by EDA.
- b. When property is no longer required as provided above, the Government determines final disposition and must be compensated by the Recipient for the Federal share of the value of the property, plus costs and interest, as contained in 13 CFR Part 314.5.

4. EDA's Interest in Award Property

- a. Recording EDA's Interest in Property:
 - (1) For projects involving the acquisition, construction or improvement of a building, the Recipient expressly agrees to declare and furnish to the Government, prior to initial Award disbursement, a lien, covenant or other statement, satisfactory to EDA in form and substance, of EDA's interest in the property acquired or improved in whole or in part with the funds made available under this Award. The statement must specify in years the estimated useful life of the project and shall include, but not be limited to disposition, encumbrance, and compensation of Federal share

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- (2) This lien, covenant or other statement of the Government's interest must be perfected and placed of record in the real property records of the jurisdiction in which the property is located, all in accordance with local law. EDA may require an opinion of counsel for the Recipient to substantiate that the document has been properly recorded.
 - (3) Facilities in which EDA investment is only a small part of a large project, as determined by EDA, may be exempted from the requirements of this paragraph a., but the property remains subject to the remaining provisions of section K 4.
- b. The Recipient acknowledges that the Government retains an undivided equitable reversionary interest in the property acquired or improved in whole or in part with the funds made available through this Award throughout the useful life (as determined by EDA) of the property, except in those instances listed in 13 CFR 314 7(c).
 - c. The Recipient agrees that in the event it disposes of, or alienates in any manner any interest in, the property during its useful life, without EDA's written approval, the Government will be entitled to recover the Federal share of the value of the property. When during its useful life property is no longer needed for the purpose of the Award, as determined by EDA, EDA may permit its use for other acceptable purposes consistent with those authorized for support by EDA.
 - d. For purposes of any lien or security interest, the amount of the Government's share shall be the full amount of the EDA Award. However, the Federal share to which the Government is entitled (as stated in paragraph c., above) may be more or less than the Award.
 - e. Alienation of Award property includes sale or other conveyance of the Recipient's interest, leasing or mortgaging the property, or granting an option for any of the foregoing. During the useful life of the property, EDA ordinarily will approve the alienation of Award property without requiring recovery of the Federal share of its value only where such alienation is intended in the original Award, except that EDA may approve mortgaging of the property as provided by regulation (13 CFR Part 314).

5. Leasing Restrictions

Leasing or renting of the facilities is prohibited unless specifically authorized by EDA. The Recipient agrees that any leasing or renting of the facilities involved in this project will be subject to the following: that said lease arrangement is consistent with the authorized general and special purpose of the Award; that said lease arrangement is for adequate consideration; and that said lease arrangement is consistent with applicable EDA requirements concerning, but not limited to, nondiscrimination and environmental compliance.

Alderman Holder made motion seconded by Alderman Bennett and unanimously carried to extend the Proclamation of Civil Emergency, Hurricane Katrina to protect and preserve the public health and safety of the community.

There came on for consideration a letter with attachments from City Engineer John Campton, as follows:

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A. GARNER RUSSELL & ASSOCIATES, INC. / CONSULTING ENGINEERS
520 33RD STREET, GULFPORT, MS 39507
P.O. BOX 1077, GULFPORT, MS 39502

TEL (228) 863-0667
FAX (228) 863-5232



December 12, 2006

City of Long Beach
P. O. Box 929
Long Beach, MS 39560

Re: **Proposed Change Order Number 1 –
Dead Tree Removal Phase 2 – Hurricane Katrina**

Gentlemen:

This contract is to cut designated dead or dying trees which were killed by Hurricane Katrina, within the inundated areas of the City. At the time when the contract was written, FEMA instructed that smaller trees (less than 12" in diameter) must be loaded into trucks and measured and paid for by the cubic yard. Larger trees could be measured and paid for on a "per each" basis. This means that the smaller trees and the larger trees must be handled in separate operations, and not mixed together on the same truck. This always seemed foolish and inefficient, but it was a requirement of FEMA.

Now that a contract is in place, FEMA personnel have advised that they will allow the smaller trees to be paid for on a "per each" basis, provided that the Contractor will agree to a very nominal payment of \$59.15 per tree for each tree less than 12" in diameter. This would save effort and paperwork on everyone's part, and will also speed up the operation.

The Contractor is agreeable, and I recommend acceptance of the enclosed Change Order Number 1 to implement this change.

Sincerely,

John Campton, P.E.

Jj/K301 XI
Enclosure

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CHANGE ORDER

No 1

Dated 12/12/2006

Owner's Project No _____ Engineer's Project No K301-XI
Project Dead Tree Removal Phase 3 - Hurricane Katrina
Owner City of Long Beach

Contractor T.C.B. Construction Company, Inc. Contract Date 11/22/2006
Contract For Entire Project

To: T.C.B. Construction Company, Inc. Contractor:

You are directed to make the changes noted below in the subject contract:

Owner City of Long Beach
By _____
Date _____

Nature of the Change

Change Method of Measurement and Payment for Pay Item 1 from a unit price of \$14.90 per cubic yard measured in trucks, to a unit price of \$52.15 per each tree, 6" to 12" size. Method of measurement to be the same as for Items 2, 3, and 4, per paragraph (D)(3) in Specifications

Enclosures:
Attachment showing detailed adjustments in quantities and prices

The changes result in the following adjustment of Contract Price and Contract Time:

Original Contract Price	\$ 77,450.00
Contract Price Prior to This Change Order	\$ 77,450.00
Net (Increase) (Decrease) Resulting from this Change Order	\$ (14.90)
Current Contract Price Including This Change Order	\$ 77,435.10

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Contract Time Prior to This Change Order _____ – _____ Calendar Days
Net (Increase) (Decrease) Resulting From This Change Order _____ – _____ Calendar Days
Current Contract Time Including This Change Order _____ Complete by February 28, 2007 _____ Calendar Days

The Above Changes Are Approved: A. Garner Russell & Associates, Inc.
ENGINEER

by _____

Date _____

The Above Changes Are Accepted: T.C.B. Construction Company, Inc.
CONTRACTOR

by _____

Date _____

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Dead Tree Removal Phase Two - Hurricane Katrina
ATTACHMENT TO CHANGE ORDER NO. 1

PROJECT NO. K301-XI

NO.	DESCRIPTION	CURRENT CONTRACT QUANTITY	UNIT PRICE	CURRENT CONTRACT EXTENSION	QUANTITY THIS C.O.	EXTENSION THIS C.O.	QUANTITY TO DATE	EXTENSION TO DATE
1	Remove & dispose of dead tree from public land, 6" to 12" size	2,500 C.Y	\$14.90	\$ 37,250.00	(2,500)	\$ (37,250.00)	0	\$ -
1A	Remove & dispose of dead tree from public land, 6" to 12" size	0 EA	\$52.15	\$ -	714	\$ 37,235.10	714	\$ 37,235.10
2	Remove & dispose of dead tree from public land, 13" to 24" size	200 EA	\$157.00	\$ 31,400.00	0	\$ -	200	\$ 31,400.00
3	Remove & dispose of dead tree from public land, 25" to 36" size	40 EA	\$189.00	\$ 7,560.00	0	\$ -	40	\$ 7,560.00
4	Remove & dispose of dead tree from public land, above 36" size	2 EA	\$620.00	\$ 1,240.00	0	\$ -	2	\$ 1,240.00
				\$ 77,450.00		\$ (14.90)		\$ 77,435.10

Based upon the recommendation of Mr. Campton as set forth above, Alderman Holder made motion seconded by Alderman Lishen and unanimously carried to approve Change Order Number 1, Dead Tree Removal Phase 2.

Alderman Notter made motion seconded by Alderman Holder to approve the placement of a camper trailer for a period not to exceed six (6) months as requested by Kendra T. Case, 116 Beach View Circle.

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Alderman McNary made motion seconded by Alderman Notter and unanimously carried to approve Police Department personnel matters, as follows:

Step Increase Patrolman 1st Class Thomas Kent, PS-10-I, effective January 1, 2007;

Step Increase Patrolman 1st Class Jon Bozek, PS-10-VI, effective January 1, 2007;

Step Increase Patrolman 1st Class Michael Burkett, PS-110-II, effective January 1, 2007;

Step Increase Dispatcher Monica Tillman, PS-3-I, effective January 16, 2007;

Step Increase Patrol 2nd Class J. D. Zugg, PS-7, effective January 16, 2007;

Postpone hiring T. J. Allen, Dispatcher, until the expiration of WIN Grant Program.

There came on for consideration quotes for repairs to the concession stand and press box, Fred Skellie Field (Babe Ruth), as follows:

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CITY OF LONG BEACH

DOCUMENTATION OF
ALTERNATIVE PRICES
Pursuant to Mississippi Code § 31-7-13

(Attach to Purchase Order)

A. Item or service to be purchased:

LB 205, PW 2907- Fred Skelton Field (Babe Ruth)
To repair concession stand and press box

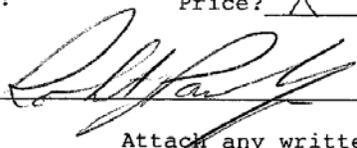
B. Vendors contacted:

Vendor Name	Art Weaver	Hammons Construction
Address	16200 Lizana School Road Gulfport, MS 39502	605 Lynn Ave., Ste. B Long Beach, MS 39560
Price	\$ 14,925.00	\$ 14,501.85
Name of Contact	Art Weaver	Ronnie Hammons

C. Note here if there are any differences between the goods or services offered by various vendors.

D. Which vendor was selected? Hammons Construction

Why? Price? Other? _____ (List Reasons).

Signed  Date 12-5-06

Attach any written quotes received.

Note: This form is required on all purchases over \$500 that are not bid. You are encouraged to use this form for purchases below \$500.

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Proposal

Page # 1 of 1 pages

Art Weaver 16200 Lizane School Rd. Apt. Ms. 39503		
Proposal Submitted To: <u>Long Beach Babe Ruth</u>	Job Name: <u>Press Box</u>	Job #
Address: <u>City of Long Beach</u>	Job Location: <u>Babe Ruth Baseball Field</u>	
Phone #	Fax #	Date: <u>11-20-06</u>
Architect		

We hereby submit specifications and estimates for:

- 1) Replace Complete A/c System
- 2) Construct New Walls for Rooms
- 3) New Stretrock walls + Ceilings
- 4) Insulate Ceilings + Walls
- 5) Add Plumbing for upstairs toilet + lavatory
- 6) Construct New A/c Closet
- 7) Correct wiring problems and wire Air Conditioning
- 8) Prepare floor + Replace Carpet

* Material + Labor \$14,925.00

We propose hereby to furnish material and labor — complete in accordance with the above specifications for the sum of:

\$ Forteen Thousand nine hundred twenty five and 00/100 Dollars

with payments to be made as follows: _____

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control.

Respectfully submitted [Signature]

Note — this proposal may be withdrawn by us if not accepted within 30 days

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Date of Acceptance _____ Signature _____

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Proposal

Hammons Construction

605 Lynn Avenue Suite B
Long Beach, Ms 39560
228-343-9734
Fax 228-868-7699

PROPOSAL SUBMITTED TO **PHONE** **DATE**
City Long Beach November 30, 2006

JOB LOCATION:
"Long Beach Babe Ruth Concession Stand & Press Box"

We hereby submit this proposal as specifications:

Upstairs Press Box

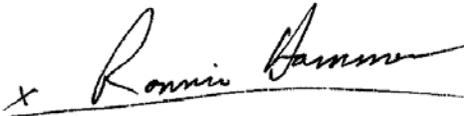
Work included in job:

- A/C-Fur plenum to adequately heat and cool press box
- Add rooms for bath, storage, and umpire changing rooms
- Remove sheetrock on walls for insulation and replace
- Sheetrock ceilings and walls
- Spray foam insulation for inside roofing and batten insulation for walls
- Build heater closet for furnace
- Electrical-
 - a.) Troubleshoot problems with inadequate breakers and hook up A/C units
 - b.) Remove ceiling light to install sheetrock and add lighting for added rooms
- Plumbing- Install water closet and lavatory for upstairs bath
- Flooring-
 - a.) Add plywood flooring to level floor
 - b.) Carpet upstairs press box

Material & Labor: \$11,985.00
10% Profit: \$ 1,198.50
Total: \$13,183.50
10% Overhead: \$ 1,318.35

Total Cost to Complete Job: \$14,501.85

If you any questions feel free to give us a call. Again, we thank you for the opportunity to work with you.

x 

Upon discussion, Alderman Holder made motion seconded by Alderman Notter and unanimously carried to award the contract to Hammons Construction in the amount of \$14,501.85 as lowest and best bid, contingent upon FEMA/MEMA participation.

There came on for consideration quotes for repairs to the fence, Fred Skellie Field (Babe Ruth), as follows:

Minutes of December 19, 2006
Mayor and Board of Aldermen

CITY OF LONG BEACH

DOCUMENTATION OF
ALTERNATIVE PRICES
Pursuant to Mississippi Code § 31-7-13

(Attach to Purchase Order)

A. Item or service to be purchased:

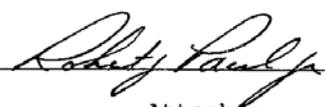
REPAIR FENCE AT SKELLY BALL PARK

B. Vendors contacted:

Vendor Name	<u>Custom Fence Builders</u>	<u>863-5400</u>	<u>CANT BE BEAT FENCE - 0</u>
Address	<u>22215 CLARK LANE</u>	<u>872-5464</u>	<u>Southern Fence - 0</u>
	<u>GULFBORT MS 39503</u>	<u>832-6671</u>	<u>Williams Fence - 0</u>
Price	<u>\$ 9745⁰⁰</u>	<u>\$</u>	<u>\$ Campells Fence - 0</u>
Name of Contact	<u>KIRBY 832-1833</u>		

C. Note here if there are any differences between the goods or services offered by various vendors.

D. Which vendor was selected? Custom Fence Builders
ONLY ONE WHO WOULD GIVE US A BID - PROJECT TOO LARGE FOR THE OTHERS
Why? LISTED Price? _____ Other? (List Reasons).

Signed  Date 12-6-06

Attach any written quotes received.

Note: This form is required on all purchases over \$500 that are not bid. You are encouraged to use this form for purchases below \$500.

Minutes of December 19, 2006
Mayor and Board of Aldermen

M. AMMONS

FAX NO. : 832-2022

Nov. 07 2006 09:36AM P1

CUSTOM FENCE BUILDERS

22215 CLARK LANE
GULFPORT, MS 39503
228-832-1833
FAX #228-832-2022

Send to: <i>Long Beach Parks & Recreation</i>	From: <i>Kirby Ammons</i>
Attention: <i>Bob Paul</i>	Date: <i>11/7/06</i>
Office Location:	Office Location:
Fax Number: <i>865-10822</i>	Phone Number: <i>832-1833</i> <i>669-1502</i>

- Urgent
- Reply ASAP
- Please comment
- Please Review
- For your information

Total pages, including cover: *3*

Comments:

<i>fence proposal on Skellie Ball field</i>

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

AMMONS

FAX NO. : 832-2022

Nov. 07 2006 09:37AM P2

**Custom
Fence Builders**

Page 1 of 2

22215 Clark Lane
Gulfport, MS 39503
(228) 832-1833 • (228) 832-2022

Attn: Bob Paul

Kirby's cell # 669-1502

PROPOSAL / CONTRACT

NAME City of Long Beach - Parks - Recreation	NAME Skellie Ball Field
STREET	STREET
CITY, STATE AND ZIP CODE Long Beach, MS	CITY, STATE AND ZIP CODE
PHONE 669-4601	PHONE
DATE 11/4/06	

We hereby submit specifications and estimates for:

Proposal: Materials to perform the following work to be done at Skellie Ball Field:

- Replace 110 feet of backstop with three (3) inch schedule 40 post and with 1 1/2 gauge chainlink fence.
- Install two (2) 4 x 8 welded walk gates
- Install one (1) eight foot welded double drive gate
- Replace two (2) joints of 1 5/8 top rail
- Repair 60 feet of eight (8) foot chainlink fence
- Tear out and pour new concrete footing
- Removal and disposal of old fence materials

We Propose hereby to furnish labor and material complete in accordance with the above specifications, for the

Sum of: _____ dollars (\$ _____).

Payment to be made as follows: _____

All material is guaranteed to be as specified. All work is to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. No warranties on wood gates.

Authorized Signature _____

Note: This proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. The final billing will be based on the actual footage, and due upon completion of work. All materials will remain the property of CUSTOM FENCE BUILDERS until all invoices pertaining to this job are paid in full. Right of access and removal is granted to CUSTOM FENCE BUILDERS in the event of non-payment under the terms of this contract. The customer agrees to pay all interest and any costs incurred in the collection of this debt.

Date of Acceptance _____

Signature _____

Structure _____

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

AMMONS

FAX NO. : 832-2022

Nov. 07 2006 09:37AM P3

**Custom
Fence Builders**

page 2 of 2

22215 Clark Lane
Gulfport, MS 39503
(228) 832-1833 - (228) 832-2022

Attn: Bob Paul

PROPOSAL / CONTRACT

NAME <u>City of Long Beach - Parks & Recreation</u>	NAME <u>Skullie Ball Field</u>
STREET	STREET
CITY, STATE AND ZIP CODE <u>Long Beach, MS</u>	CITY, STATE AND ZIP CODE
PHONE <u>669-7601</u>	PHONE
DATE <u>11/7/06</u>	

We hereby submit specifications and estimates for:

Install one (1) new flag pole
Backstop will consist of full weight schedule 40 pipe braces
And welded joints.

Total Cost Including all Labor & Materials \$9745.00

We Propose hereby to furnish labor and material — complete in accordance with the above specifications, for the

Sum of: nine thousand seven hundred forty five 09/100 dollars (\$ 9745.00)

Payment to be made as follows: Upon Completion

All material is guaranteed to be as specified. All work is to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. No warranties on wood gates.

Authorized Signature Kirby Ammons
Note: This proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. The final billing will be based on the actual footage, and due upon completion of work. All materials will remain the property of CUSTOM FENCE BUILDERS until all invoices pertaining to this job are paid in full. Right of access and removal is granted to CUSTOM FENCE BUILDERS in the event of non-payment under the terms of this contract. The customer agrees to pay all interest and any costs incurred in the collection of this debt.

Date of Acceptance _____
Signature _____
Signature _____

Upon discussion, Alderman Holder made motion seconded by Alderman Burton and unanimously carried to award the contract to Custom Fence builders in the amount of \$9,745.00 as the only bid submitted and contingent upon FEMA/MEMA participation.

Alderman Holder made motion seconded by Alderman Notter and unanimously carried to approve Library personnel matters, as follows:

- Step Increase Library Director Jeannie Ripoll, CSA-8-III, effective December 1, 2006;
- Step Increase Library Clerk Wanda Gunter, CSA-1-III, effective December 1, 2006.

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Alderman McNary made motion seconded by Alderman Holder and unanimously carried to approve Harbor personnel matters, as follows:

It was noted for the record that previous action was taken regarding the retirement of Harbor Guard John Kentzel;

Hire Harbor Guard Danny Ladnier, CSH-2-B, effective January 1, 2007.

Alderman Holder made motion seconded by Alderman Notter and unanimously carried to approve the Christmas Holiday Schedule, as follows:

Friday, December 22, 2006, close at noon (employees must utilize four (4) hours leave)

Wednesday, December 27, 2006, reopen at 8:00 o'clock a.m.

There came on for consideration letters regarding a water leak at Philly's, 20048 Pineville Road, as follows:

Minutes of December 19, 2006
Mayor and Board of Aldermen



March/13/06

Long Beach Water Department
Klondyke Rd.
Long Beach MS. 39560.

Re: Water Leak at 20048-C. (Philly's Rest.)
and Water bill.

Dear Sir:

My name is Nick Panaris part owner of the Philly's Restourant.

Regarding the bill of the account # 2007644 is incorrect for the following reasons.

First off we purchase the business of Philly's, Oct. /18/06 as shown on the Copy of the agreement.

I am also enclosing the front and back of the Lease with the landlord so you can clearly see when we took over the Philly's

I am also enclosing a letter from the Landlord Mrs Linda Torgino regarding the water break at the front of the Restourant, which we finally repair ourselves.

I trust that you will take all this under consideration. and adjust this bill accordingly.

Thank you for your Cooperation.
Respectfully yours
N. L. Panaris

Minutes of December 19, 2006
Mayor and Board of Aldermen

LINDA N. TAQUINO REAL ESTATE
P. O. BOX 6275
DIAMONDHEAD, MS 39525

March 8, 2006

Long Beach Water Department
Klondyke Rd
Long Beach, MS 39560

Re: Water Leak at 20048-C, Philly's, located at Daughtery&Pineville, Long Beach

Dear Sir:

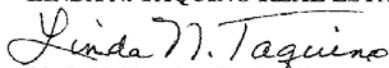
My name is Linda Taquino. I am the owner of the above referenced property. After Katrina, a leak was found in the parking lot on the Pineville Rd side of Building C (Philly's). The Tenants notified me of the problem and began trying to find a plumber to repair the problem. I called every licensed plumber in town and some in Saucier. No one could do it; they did not have the time for emergencies such as this because they were so busy with the Katrina recovery. I called and physically came to the water department to notify them of the problem and what we were doing to try to get it repaired as quickly as possible. They told me they were aware of the leak and I needed to call Optec and talk to Herb because he was already aware of the leak. I called and spoke to Herb. I explained that I had called every plumber in the city of Long Beach and some in Saucier; no one could get to it, others had a waiting list of 4 to 8 weeks, however, we needed the repair now. He told us to turn the water off at the meter every night and that he would ask around and see if he could find some of the men there who would be willing to come on their time off and fix it. I continued calling plumber after plumber and still nothing.

Finally when the Tenants called me and told me that they would do it themselves. I had no choice but to say yes, because we were not getting anywhere.

We did everything possible to get this repaired as quickly as possible. I do not feel that I nor the Tenant should be responsible for the enormous water bill.

Sincerely,

LINDA N. TAQUINO REAL ESTATE


Linda N. Taquino, Broker/Owner

The Mayor recognized Nick Panas who explained the difficulties involved in repairing the water leak and stated that the water ran on the ground, absorbed into the concrete, grass and dirt, and was not processed through the sewer system.

Upon discussion it was determined that the establishment did not receive benefit from water usage and therefore the amount of the water bill is unreasonable.

Alderman Holder then made motion seconded by Alderman Notter and unanimously carried directing the Clerk to adjust the water bill to the average monthly billing over a period of twelve (12) months.

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

The Mayor recognized Marcia Kruse who briefly addressed the Mayor and Board of Aldermen regarding the master plan.

Mrs. Joanna Hudson addressed the Mayor and Board of Aldermen regarding the garbage ordinance, however, no formal action was required or taken at this time.

Appointment to the Civil Service Commission was taken under advisement until the next regular meeting January 2, 2007.

It was noted for the record that the resignation of Estelle Maxwell from the Long Beach Library Board was placed on the agenda in error.

Alderman McNary made motion seconded by Alderman Bennett and unanimously carried to appoint Betty DAquila to the Long Beach Library Board to fill the unexpired term of Lucy Dessommes, present-July/2008.

There came on for consideration the Ward 1 appointment to the Long Beach Planning Commission and documents submitted for the record by Alderman Boggs, as follows:

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

December 19, 2006

Motion of Charles Boggs, Alderman Ward 1

It is my motion that: Upon inspection of the record of the Planning Commission minutes of July 27, 2006, August 10, 2006, emails from Charles Boggs to Joe DeFazio August 22, 2006, from a Ward 1 Citizen September 20, 2005, Sandy Sorline September 24, 2006 that the collective rights of the citizen's constitutional civil rights and the individual constitutional civil rights of Joseph DeFazio may have been violated by his removal from the Long Beach Planning Commission to quash their opinion from being represented on the planning commission. Against this background, I am submitting his name for immediate reinstatement.

*which asb be spread into minutes
aug 24, 2006*

*and statement
of Mr. DeFazio*

David Youmans

Minutes of December 19, 2006
Mayor and Board of Aldermen

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MINUTES OF JULY 27, 2006
CITY OF LONG BEACH PLANNING COMMISSION

Mr Dennis Stieffel came forward to represent the applicant. He stated that they would like to get approval for this project so they can move forward. The only change that may occur is the first floor may become un-developable due to FEMA regulations, which would make the Condominiums less dense.

At this time Alderman Boggs came forward to state his case against the applicant. He argued the validity of the process and request. He reiterated the order of Judge Steve Simpson and his ruling of the Ordinance formerly know as Ordinance 502. Mr. Boggs also informed the Commission that he did not believe that they could approve the applicant as submitted based on how the applicant came forward.

After considerable discussion Commissioner Defazio made a motion seconded by Commissioner Yandell and unanimously carried to table the applicants request until he can complete items on the letters from and Fire Marshall and the City Engineer.

There came on for Planning Commission a Preliminary Plat approval submitted by Glenn and Val Muller for *Penny Lane Subdivision*. No one was present to represent the applicant and no action was taken.

There came on for Planning Commission approval a request to locate a single family resident in a C-2 zone submitted by Harry Husband for property located at 209 Klondyke Road as follows:

Minutes of December 19, 2006 Mayor and Board of Aldermen

PLANNING COMMISSION August 10, 2006

property floods. Mr. Richards is concerned that building a home on the subject property may cause additional flooding.

The Chairman recognized Ms. Phyllis Doty, 6083 Harvest Lane, who reiterated the same concerns as Mr. Richards regarding flooding.

There was no one else present to speak in opposition.

The commission again recognized Darin and Pam Berdine, who stated the home would be built with a chain wall and the engineering plans would entail that the flow of water off the subject property would be toward the canal. It was the consensus of the commission that the only issue before them at this time is the request for variance.

Commissioner Defazio made motion seconded by Commissioner Stogner and unanimously carried to close the Public Hearing.

** **

Commissioner Defazio made motion seconded by Commissioner Sweetapple and unanimously carried to approve the aforesaid request for variance subject to Fire Department approval.

There came on for consideration a preliminary plat approval for Pitcher Point Condominiums. Said plat approval was initially requested and information regarding same spread upon the minutes of the July 27, 2006, minutes of the Planning Commission, at which time it was tabled. Commissioner Reed made motion seconded by Commissioner Yandel and unanimously carried to take the matter off the table for further deliberation and action.

Mr. Dennis Steiffel was present to address any questions regarding the aforesaid request. Letters from the Long Beach Fire Department and Garner Russell and Associates, Engineers, were submitted regarding prior concerns. Said letters ordered spread upon the minutes of this meeting in words and figures as follows:

Minutes of December 19, 2006 Mayor and Board of Aldermen

PLANNING COMMISSION August 10, 2006

After considerable discussion, Commissioner Yandel made motion seconded by Commissioner Stogner to approve the aforesaid request

Brief discussion continued regarding Ordinance 344 and the and Judge Steve Simpson's ruling of the Ordinance formerly known as 502, at which time Commissioner Defazio made substitute motion seconded by Commissioner Rishel to table the matter. The substitute motion being put to a roll call vote, the result was as follows:

Commissioner Sweetapple	voted	Nay
Commissioner Reed	voted	Nay
Commissioner VanCourt	voted	Nay
Commissioner Olaiver	voted	Nay
Commissioner Yandel	voted	Nay
Commissioner Stogner	voted	Nay
Commissioner Defazio	voted	Aye
Commissioner Rishel	voted	Aye
Commissioner Serrato	voted	Absent,not voting

The motion having received the negative vote of a majority of the commissioners present and voting, the chairman declared the **motion not carried**.

** **

The Chairman called for the original question, whereupon the motion was put to a roll call vote, the result was as follows:

Commissioner Sweetapple	voted	Aye
Commissioner Reed	voted	Aye
Commissioner VanCourt	voted	Aye
Commissioner Olaiver	voted	Aye
Commissioner Yandel	voted	Aye
Commissioner Stogner	voted	Aye
Commissioner Defazio	voted	Nay
Commissioner Rishel	voted	Nay
Commissioner Serrato	voted	Absent,not voting

The motion having received the affirmative vote of a majority of the commissioners present and voting, the chairman declared the **motion carried**, and the preliminary plat approval for Pitcher Point Condominiums approved

There came on for consideration a preliminary plat approval for Pennyland Subdivision submitted by Glenn and Val Mueller as follows:

Minutes of December 19, 2006 Mayor and Board of Aldermen

MINUTES OF AUGUST 24, 2006 LONG BEACH PLANNING COMMISSION

Be it remembered that a regular meeting of the Long Beach Planning Commission was begun and held in the City of Long Beach, Superintendent of Education's Office in said City at 7:00 p.m. on Thursday the 24th day of August 2006. The same being the time and place fixed for holding said meeting.

There were present and in attendance on said Commission and at the meeting the following named persons; Frank Olavar, Joe Defazio, Tonda Yandell, Frank Reed, Tony VanCourt, Dale Stogner, Joseph Sweetapple David Serrato, Planning Commission Advisor Bill Hessell and Minutes Clerk Mimi McMath.

Commissioners Rod Rishel was absent the meeting.

There being a quorum present sufficient to transact the business of the Planning Commission, the meeting was called to order at 7:00 p.m. and the following proceedings were had and done

The Commission Chairman stated that all decisions made at this meeting would have to be ratified by the Mayor and Board of Aldermen at their next regularly scheduled meeting of September 5, 2006 and subject to a ten-day appeal for a Public Hearing

Commissioner Yandell made motion seconded by Commissioner Defazio and unanimously carried to approve Planning Commission Minutes of August 10, 2006, noting a correction to page 323 of the City of Long Beach Planning Commission Book 11, second paragraph after the word **table** *should read "until such time as a zoning district can be created for high density and high rise residential use."* The Words, *the matter*, should be removed.

Minutes of December 19, 2006 Mayor and Board of Aldermen

MSN Hotmail -

Page 1 of 1



planninglb@hotmail.com

Printed: Tuesday, December 19, 2006 2:59 PM

From: "Charlie Boggs" <c_boggs@boggsloehnrodrigue.com>
To: "Joe D" <joedshofautographs@hotmail.com>
Subject: Re: Respond
Date: Tue, 22 Aug 2006 13:46:38 -0500

Joe: As a member of the planning commission I ask you to consider the following principals when considering highrise, high density projects: 1 Board of Aldermen final plan approval of August 8, 2006 of Creekstone highrise high density usage (3 buildings 180 feet in height with a density of 42 units per acre) in violation of the direct finding by this Court that high rise, high density usage constitute a change in the nature and character of C-2 (See Boggs vs. Board of Aldermen A2501-2005-32). 2. The Board of Aldermen August 8, 2006 approval of the Planning Commission minutes entitles the Creekstone developer to obtain a building permit to begin construction on the basis of a de facto variance without the required hearing and in violation of the Zoning Ordinance (Ordinance 344) Sec. 1203, 1204, 1207 et seq. 3. The aforesaid Board of Aldermen approval action violates the totality of this Court's previous finding in Boggs vs. Board of Aldermen, supra, that rezoning or a change in zoning (by allowing extreme height and density in C-2) requires proof by clear and convincing evidence that (1) there was a mistake in the original zoning or (2) the character of the neighborhood has changed to such an extent as to justify rezoning and that a public need exists for rezoning. 4. The action of the Board of Aldermen of August 8, 2002 in final approval of high rise, high density usage in C-2 without a zoning change was contrary to the notice requirements of Sec 1305. 5. The Mayor's veto of a remand to the Planning Commission for drafting of a high rise, high density zoning district in accordance with the previous ruling of this Court in Boggs vs. Board of Aldermen, supra, was arbitrary and capricious and outside of his authority because the said remand was not an action subject to veto, but rather was a remand for further advice and drafting of legislative action to comply with Judge Stephen Simpson's prior ruling in Boggs, supra. 6. The Board of Aldermen final approval of the Creekstone highrise high density project constituted violation of appellants protection of due process and equal protection as this direct and adversely deprives them of property value without any hearing whatsoever contrary to the U.S. and Mississippi Constitutions, Particularly the Fifth Amendment and the Fourteenth Amendment. Mississippi Impa c_boggs@boggsloehnrodrigue.com

Your Hotmail address already works to sign into Windows Live Messenger! Get it now.

<http://by127fd.bay127.hotmail.msn.com/cgi-bin/getmsg?curmbox=00000000%2d0000%...> 12/19/2006

Minutes of December 19, 2006 Mayor and Board of Aldermen

MSN Hotmail -

Page 1 of 1



planninglb@hotmail.com

Printed: Tuesday, December 19, 2006 3:01 PM

From: *LSYDAY@aol.com*
To: *planninglb@hotmail.com*
CC: *LSYDAY@aol.com*
Subject: *Meeting with Joe DeFazio*
Date: *Wed, 20 Sep 2006 20:02:49 EDT*

Mayor and Aldermen of Long Beach:

I want to thank Joe DeFazio for the time he spent with me and other Destiny Oaks current residents. Joe's time spent with us was very enlightening. He discussed the current planning for Long Beach and the high density Condominium Project slated for the corner of Pitcher Point and Highway 90. Joe also indicated that there was an appeal process started to question the high density Condo project. I and other Destiny Oaks residents indicated that we would like to join that appeal. We are concerned that the addition of 450 residents in this area would stress the current infrastructure and services. We want planned growth for Long Beach and do not currently feel the access to I 10, current fire support, utilities and services can support this development.

Again, I would like to thank Joe for his time and educated insight.

David Youmans
133 Destiny Oaks Drive

Fixing up the home? Live Search can help

<http://by127fd.bay127.hotmail.msn.com/cgi-bin/getmsg?curmbox=00000000%2d000000%...> 12/19/2006

Minutes of December 19, 2006
Mayor and Board of Aldermen



cc: "planninglb@hotmail.com"

Subject: FW: SmartCode and plan, DeFazio firing

From: *Sandy Sorlien* <sand44@mindspring.com>
To: "Joe DeFazio" <planninglb@hotmail.com>
Subject: *SmartCode and plan, DeFazio firing*
Date: *Sun, 24 Sep 2006 12:20:15 -0400*

>

>Dear Mayor Skellie and Board of Aldermen,

>

>I am the SmartCode author and consultant who came down to work with
>the Long Beach SmartCode committee on June 17th. I consulted with
>Joe DeFazio on the phone and by email before and after, and with the
>full committee on that workshop day. I was very impressed with the
>work of that committee. Joe really did his homework on
>Transect-based planning and the regulating plan. He showed a very
>good understanding of the SmartCode's structure and how it connects
>with the plan to make it happen.

>

>So, when I read in the paper that Joe had been removed from the
>Planning Commission, I thought I should write and support him for
>reinstatement. I am not aware of all the factors involved, but it
>seems a real shame to let such a valuable resource go, just when the
>City needs some **SmartCode expertise**.

>

>If you're really interested in enacting the master plan developed
>from the charrette process advanced by the Governor's Renewal
>Committee, then you'll need the code in place to activate it. The
>plan doesn't just happen. If it's only advisory, advice is not

Minutes of December 19, 2006 Mayor and Board of Aldermen

>always taken. The SmartCode is correlated to the plan, and it must
>be adopted into law or you'll get undesirable outcomes.
>
>I saw a rough one-page guideline for the downtown that someone wrote
>as an alternative, and it is completely inadequate. It won't do
>anything for your economic recovery.
>
>Mayor, as I mentioned to you on the phone last week, a SmartCode
>doesn't have to be adopted for the whole city. You have leeway about
>where to make an overlay mandatory, or where to adopt it as an
>option for developers to choose if they wish. Many of the other Gulf
>Coast cities are targeting their downtowns for mandatory SmartCode
>overlays, because the downtown is key to economic recovery. You
>might want to talk to officials in Pascagoula and Moss Point where
>they are doing that. They're moving ahead strongly with the
>SmartCode.
>
>Joe DeFazio, who is *really* devoted to Long, can also help guide you
through all this, so I hope you'll consider reinstating him on the Planning
Commission. And in
>any case, please feel free to call on me or Ann Daigle if you are
>serious about pursuing the master plan for Long Beach.
>
>Best wishes,
>
>Sandy Sorlien
>
>Codes Team Leader,
>Mississippi Renewal Forum
>
>
>--
>
>Sandy Sorlien
>New Urban Codes Collaborative, LLC
><http://smartcodepro.com/>
>
>340 Gates Street
>Philadelphia PA 19128
>215.487.2716 studio
>215.480.3115 road

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

Mr. DeFazio's Statement

These are the facts that present an accurate picture of the events surrounding the filing of the appeal.

All these facts are necessary to have a clear understanding. There are many other facts secondary to these such as my efforts to promote economic growth of Long Beach with the Master Plan and all the projects that I have made the motion to approve including one of the other condo projects being appealed

Fact: I have a responsibility to the constituents of Ward 1 to address all development issues with them. I also have an obligation to tell the Planning commission members and advise Board of Alderman Members if any action they take may violate state law, city ordinances or Judge Simpson's order.

Fact: The appellants of the condo approval **did not** file a lawsuit against the city but have simply procedurally appealed to the circuit court to review the action of the board of alderman to see if state law, city ordinances and Judge Simpson's ruling have been violated.

Fact: I did meet with constituents from Ward 1 to discuss how the approval of a 3 180 ft tower condominium in zone C-2 violated Judge Simpson's August 25, 2005 opinion. I also discussed at length the Master Plan and Smartcode for the economic redevelopment of Long Beach including high-rise, high-density condos in the plan.

Fact: I did not solicit funds for a law suit against the City of Long Beach but rather explained how the city creating a proper zone for high-rise condos would prevent equal protection lawsuits in the future. There was a representative of the filing attorney present to discuss procedures and fees for filing the appeal.

Fact: The 4 alderman who voted to have me removed from the planning commission are the same 4 alderman that passed a condo ordinance last year that violated state law and was ruled illegal by Judge Stephen Simpson and are the same 4 alderman that disregarded Judge Simpson's order by not creating a zone specifically designed for high-rise, high density residential developments.

Fact: No attempt was made to notify me by phone, mail or email that the board was going to move to remove me from the planning commission.

Fact: No attempt was made to notify me by phone, mail or email that the board has moved to remove me from the planning commission.

Thank you,

Joe DeFazio

Alderman Notter seconded the motion for the immediate reinstatement of Joe DeFazio to the Long Beach Planning Commission as the Ward 1 representative and the question being put to a roll call vote by the Mayor, the result was as follows:

Alderman Richard Notter	voted	Aye
Alderman Richard Burton	voted	Aye
Alderman Charles Boggs	voted	Aye
Alderman Richard Bennett	voted	Nay
Alderman Allen D. Holder, Jr.	voted	Nay
Alderman Mark Lishen	voted	Nay
Alderman Joseph McNary	voted	Nay

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

The question having received the NEGATIVE vote of a majority of the Aldermen present and voting, the Mayor declared the motion NOT CARRIED.

The Mayor opened the floor for public comments, as follows:
Johnny Favre, 917 Marjorie Street, Long Beach, Mississippi;
Linda and Larry Blakeney.

The Mayor recognized City Attorney Frank McCreary for his report and discussion was held for the purpose of preliminarily determining whether or not to declare an executive session.

Alderman Bennett then made motion seconded by Alderman Notter to meet in executive session for the transaction of public business, to-wit: to discuss with and seek the legal advice and counsel of the City Attorney regarding ongoing litigation.

The question being put to a roll call vote by the Mayor, the result was as follows:

Alderman Richard Notter	voted	Aye
Alderman Richard Burton	voted	Aye
Alderman Charles Boggs	voted	Aye
Alderman Richard Bennett	voted	Aye
Alderman Allen D. Holder, Jr.	voted	Aye
Alderman Mark Lishen	voted	Aye
Alderman Joseph McNary	voted	Aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried.

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The meeting resumed in open session and, based upon discussion held and action taken in executive session, no further action was required or taken in open session.

There being no further business to come before the Mayor and Board of Aldermen at this time, Alderman Holder made motion seconded by Alderman Lishen and unanimously carried to adjourn until the next regular meeting in due course.

**Minutes of December 19, 2006
Mayor and Board of Aldermen**

APPROVED:

Alderman Allen D. Holder, Jr., At-Large

Alderman Charles A. Boggs, Ward 1

Alderman Richard Notter, Ward 2

Alderman Richard Burton, Ward 3

Alderman Joseph McNary, Ward 4

Alderman Mark Lishen, Ward 5

Alderman Richard Bennett, Ward 6

Date: _____

ATTEST:

Rebecca E. Schruff, City Clerk