

**Minutes of August 21, 2007**  
**Mayor and Board of Aldermen**

Be it remembered that a public hearing before the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, was begun and held at 5:30 o'clock p.m. on Tuesday, the 21<sup>st</sup> day of August, 2007, in the Long Beach School District Central Office, 19148 Commission Road in said City and the same being the time, date and place fixed by order of the Mayor and Board of Aldermen for holding said public hearing.

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

Aldermen Mark Lishen and Joseph McNary were absent the meeting.

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

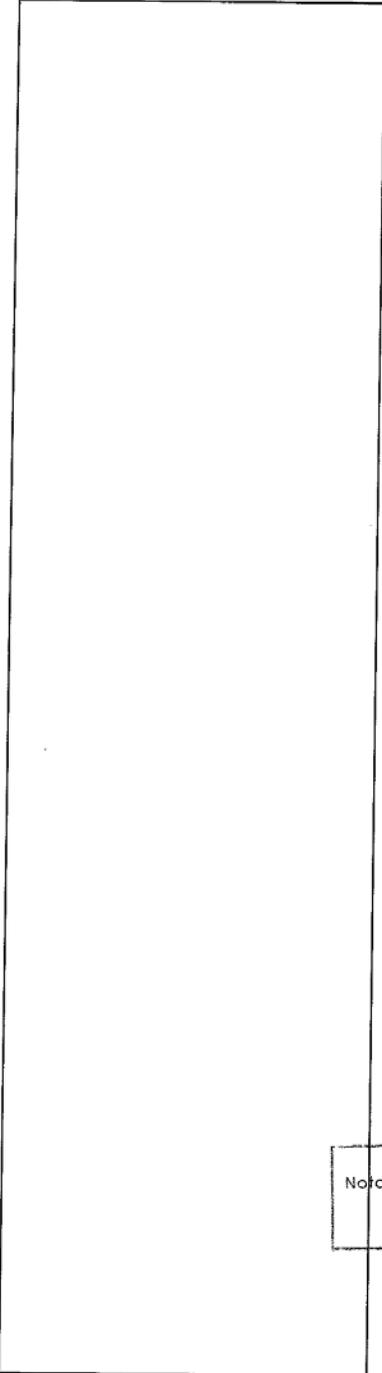
\*\*\*\*\*

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 July 17, 2007, that she did cause to be published in The Sun Herald, a newspaper with a general circulation in the City of Long Beach and published in Harrison County, Legal Notice, Public Hearing as evidenced by the Publisher's Proof of Publication.

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

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

**PROOF OF PUBLICATION**



STATE OF MISSISSIPPI  
COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Casey Pearson 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 Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 1 times in the following numbers and on the following dates of such paper, viz:

Vol. 123 No. 292 dated 24 day of July, 20 07  
 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.

JUL 27 2007

Casey Pearson  
Clerk

Sworn to and subscribed before me this 27 day of July, A.D., 20 07

KANDI A. BERKLEY  
Notary Public, State of Mississippi  
Harrison County  
My Commission Expires  
April 05, 2010

Kandi Berkley  
Notary Public

Printer's Fee ..... \$ \_\_\_\_\_  
 Furnishing proof of publication ..... \$ \_\_\_\_\_  
 TOTAL..... \$ \_\_\_\_\_

Minutes of August 21, 2007  
Mayor and Board of Aldermen

## NOTICE OF PUBLIC HEARING

A public hearing will be held on Tuesday, August 21, 2007, at 5:30 p.m. to provide the general public with an opportunity to comment on the taxing and spending plan incorporated in the proposed budget of the City of Long Beach, Mississippi, for the fiscal year beginning October 1, 2007 and ending September 30, 2008. The hearing will be held in the Long Beach School District Central Office, 19148 Commission Road, Long Beach, Mississippi. All interested citizens are encouraged to attend and comment.

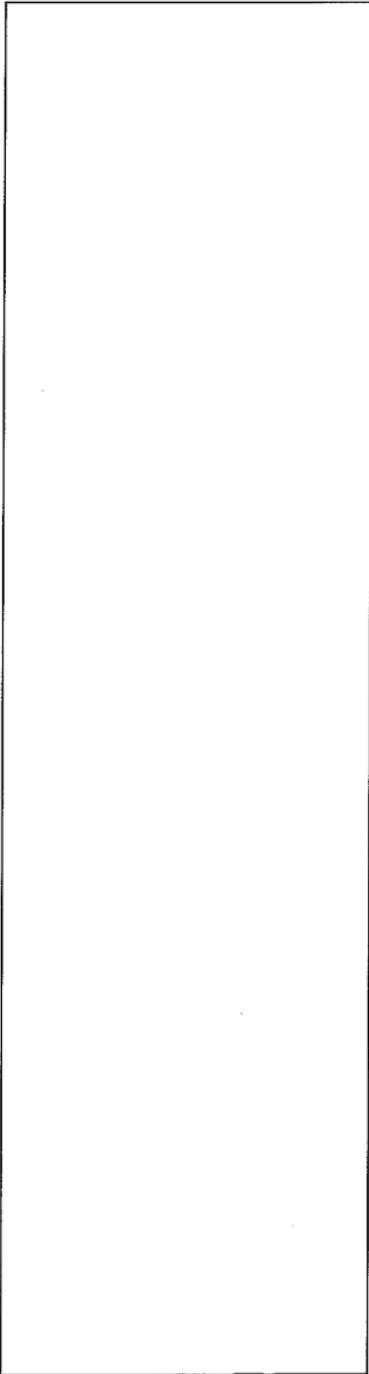
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Minutes of August 21, 2007  
Mayor and Board of Aldermen

Pg 1 of 2

See other side

**PROOF OF PUBLICATION**



STATE OF MISSISSIPPI  
COUNTY OF HARRISON

Before me, the undersigned Notary of Harrison County, Mississippi personally appeared Casey Pearson 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 Gulfport, in Harrison County, Mississippi, and the publication of the notice, a copy of which is hereto attached, has been made in said paper 1 times in the following numbers and on the following dates of such paper, viz:

Vol. 123 No., 314 dated 13 day of Aug, 20 07  
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.

AUG 14 2007

Casey Pearson  
Clerk

Sworn to and subscribed before me this 14 day of August, A.D., 20 07

Commission Expires on:  
October 15, 2007

Karen Shook  
Notary Public

Printer's Fee ..... \$ \_\_\_\_\_  
Furnishing proof of publication ..... \$ \_\_\_\_\_  
TOTAL..... \$ \_\_\_\_\_

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

**NOTICE OF TAX INCREASE - LONG BEACH,  
MISSISSIPPI**

The City of Long Beach, Mississippi, will hold a public hearing on the proposed budget for fiscal year 2007-2008, which includes a proposed AD VALOREM TAX REVENUE INCREASE, on Tuesday, August 21, 2007, at 5:30 o'clock p.m. in the Long Beach School District Office, 19128 Commission Road, Long Beach, Mississippi.

The City of Long Beach is now operating with a projected total budget revenue of \$13,747,919, (28.00%) or \$3,849,634, of such revenue is obtained through ad valorem taxes. For next fiscal year, the proposed city budget has total projected revenue of \$15,356,853, of that amount, 24.96% or \$3,832,693 is proposed to be financed through a total ad valorem tax levy.

For next fiscal year, the City of Long Beach plans to increase your total ad valorem tax millage rate by 00.00 mills for a total levy of 48.98 mills or to increase your ad valorem tax millage rate for General Revenue purposes by .45 mills from 44.63 mills to 45.08 mills and to reduce your ad valorem tax millage rate for Municipal Debt Service purposes by .45 mills from 4.35 mills to 3.90 mills. This increase means that you will not pay more ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property.

Any citizen of the City of Long Beach, Mississippi, is invited to attend this public hearing on the proposed ad valorem tax increase, and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken.

\* \* \*

Upon discussion, it was noted for the record that there is no tax increase for the citizens of Long Beach for either city or school tax levy.

\* \* \*

Discussion was held regarding the Police Department personnel category, whereupon, the Mayor opened the floor for public comments regarding the Fiscal Year 2007-2008 Budget and no one came forward to be heard.

\* \* \*

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

Alderman Notter made motion seconded by Alderman Holder and unanimously carried to close the public hearing.

\* \* \*

Upon further discussion, Alderman Notter made motion seconded by Alderman Boggs and unanimously carried directing the City Attorney to draft an ordinance for water and sewer rate increase.

\* \* \*

Alderman Holder made motion seconded by Alderman Notter and unanimously carried to schedule a work session, Monday, August 27, 2007, at 5:30 p.m. to further discuss the Fiscal Year 2007-2008 Budget.

\*\*\*\*\*

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 August, 2007, 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, Richard Bennett, City Clerk Rebecca E. Schruuff and City Attorney Frank R. McCreary, III.

Alderman Mark Lishen was absent the meeting

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 Mayor apprised the Board of Aldermen that the City has secured a 5.3 million dollar grant to build a new City Hall.

\*\*\*\*\*

Alderman Notter made motion seconded by Alderman Bennett and unanimously carried to suspend the rules and amend the Municipal Docket, appointing Steve Nicosia to the Long Beach Port Commission, retro-effective May/2006-May/2011, as the representative for Ward 2.

\*\*\*\*\*

**Minutes of August 21, 2007**  
**Mayor and Board of Aldermen**

Alderman Boggs made motion seconded by Alderman Holder and unanimously carried to approve the recess meeting minutes of the Mayor and Board of Aldermen dated August 8, 2007, as submitted.

\*\*\*\*\*

Alderman Holder made motion seconded by Alderman Burton and unanimously carried to approve the August 9, 2007, Planning Commission minutes, as submitted.

\* \* \* \* \*

There came on for consideration an appeal filed by Peggy Joyce Blakeney, as follows:

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

08/09/2007 17:49 2288635278

DKS

PAGE 02/03

**DK&S**  
DEUTSCH,  
KERRIGAN  
& STILES

Victor J. Franckiewicz, Jr.  
Counselor at Law  
Admitted in Mississippi and Louisiana

RECEIVED AUG 10 2007  
1:43 PM *Dea*

1203 Broad Avenue, Suite A  
Gulfport, MS 39501  
(228) 864-0161 Main  
(228) 663-5278 Fax

vfranckiewicz@dkslaw.com  
www.dkslaw.com

August 9, 2007

**VIA FAX: 228/865-0822  
AND CERTIFIED MAIL  
(Article No. 7002 2030 0003 3290 6188)**

Hon. William Skellie, Jr.  
Mayor, City of Long Beach  
P.O. Box 929  
Long Beach, MS 39560

**Re: Appeal of Zoning Board of Appeals July 31, 2007 Recommendation  
Building Permit #4367, Jerry's Lawnmower  
DKS File: 00824-00001**

---

Dear Mayor Skellie:

On behalf of Peggy Joyce Blakeney, and pursuant to the Long Beach Zoning Ordinance, including but not limited to Section 1204, this letter is Ms. Blakeney's formal appeal from the decision of the Long Beach Building Official to issue a building permit for a new structure for Jerry's Lawnmower on Willow Lane, #4367 (or a successor number, if a new one has been assigned).

According to the Zoning Ordinance, this appeal continues all proceedings in furtherance of the issuance of that permit, and therefore construction on the property of Jerry's Lawnmower must not proceed.

As provided for in Section 1209 of the Zoning Ordinance, Ms. Blakeney requests that a public hearing on this appeal be held before the Mayor and Board of Aldermen, and requests appropriate notice of the time, date, and place of the hearing as required by law.

We understand that some of the issues raised by Ms. Blakeney's original appeal of this building permit have been addressed in part by subsequent changes in the plan and subsequent submissions by the permittee, the resulting permit still does not comply with the zoning ordinance.

---

Deutsch, Kerrigan & Stiles, L.L.P.  
New Orleans • Monroe • Gulfport • Hattiesburg

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

08/09/2007 17:49 2288635278

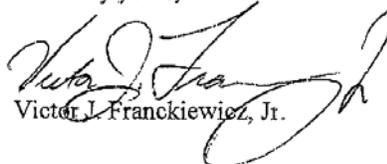
DKS

PAGE 03/03

Hon William Skellie, Jr.  
August 9, 2007  
Page 2

This appeal is being submitted to protect Ms. Blakeney's rights. We are continuing to work on settling her objection and appeal of this building permit, as well as all related zoning matters, if the parties can come to an agreeable and enforceable result. We have had discussions with Mr. Eric Wooten, who is now representing the Jerry's Lawnmower's interests. We hope that these discussions bear fruit.

Sincerely yours,



Victor J. Franckiewicz, Jr.

VJF/kt

cc: Ms. Mimi McMath  
Frank McCreary, Esq.  
James C. Simpson, Esq.  
Henry W. Kinney, Esq.  
Eric Wooten, Esq.

Minutes of August 21, 2007  
Mayor and Board of Aldermen



08/09/2007 17:49 2288635278

DKS

PAGE 01/03

**DK&S**  
DEUTSCH,  
KERRIGAN  
& STILES

<b>To:</b>	The Honorable William Skellic, Jr. Mayor, City of Long Beach	<b>Fax:</b>	228/865-0822
<b>From:</b>	Victor J. Franckiewicz, Jr.	<b>Ext:</b>	101
<b>Date:</b>	August 9, 2007	<b>Pages:</b>	3
<b>Re:</b>	Jerry's Lawnmower Zoning Matter	<b>File No.:</b>	00824-00001

NOTES/COMMENTS:  
Attached is Peggy Joyce Blakeney's Appeal from July 31, 2007 Recommendation of Long Beach Building Official regarding #4367 Building Permit.

1203 Broad Ave., Suite A • Gulfport, MS 39501 • (228) 864-0161 • Fax (228) 863-5278  
www.dkslaw.com

This facsimile transmission contains information that is intended only for the recipient named and may be confidential and subject to the attorney-client privilege. If you are not the intended recipient or an agent responsible for delivering this communication to the intended recipient, you are hereby notified that you have received this facsimile in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (800-467-5141) and return the original facsimile to us by mail without retaining any copies. Thank you.

Upon discussion, Alderman Holder made motion seconded by Alderman Notter and unanimously carried to schedule a public hearing, Tuesday, September 18, 2007, at 5:30 p.m. to consider the appeal, as set forth above.

\*\*\*\*\*

Alderman Holder made motion seconded by Alderman Notter and unanimously carried to approve the August 16, 2007, Port Commission minutes, as submitted.

\*\*\*\*\*

**Minutes of August 21, 2007**  
**Mayor and Board of Aldermen**

Alderman McNary made motion seconded by Alderman Holder and unanimously carried to approve payment of invoices as listed in Docket of Claims number 082107.

\*\*\*\*\*

The Mayor apprised the Board of Aldermen on the Fire Department rescue unit.

\*\*\*\*\*

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

\*\*\*\*\*

Based upon the recommendation of Police Chief Wayne McDowell and certification by the Civil Service Commission, Alderman Notter made motion seconded by Alderman Boggs and unanimously carried to approve the step increase, First Class Patrolman Reuben Sabio, PS-10-I, effective September 16, 2007.

\*\*\*\*\*

There came on for consideration a letter from City Engineer David Ball, as follows:

Minutes of August 21, 2007  
Mayor and Board of Aldermen



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

520 33<sup>RD</sup> STREET, GULFPORT, MS 39507  
P.O. BOX 1677, GULFPORT, MS 39502

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



August 16, 2007

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

**RE: Authorize Advertisement  
Hurricane Katrina Repairs – Phase III (Riprap & Slope Paving)  
Long Beach Smallcraft Harbor**

Gentlemen:

We are nearing completion on Plans & Specifications for the replacement of riprap and the repair of the concrete slope paving along the Harbor perimeter. We are also very close to having Bid Documents for the repairs to all of the paving and sidewalks in the Harbor. All of the work included in this Contract is eligible for 100% reimbursement based on the FEMA Project Worksheets currently obligated for the City's recovery.

If the Board wishes to proceed with this work, we recommend the following advertising schedule:

Authorize Advertisement:	August 21, 2007
First Advertisement:	August 31, 2007
Second Advertisement:	September 7, 2007
Receive Bids:	October 2, 2007

Sincerely,

David Ball, P.E.

DB:1775-III

O:\1775\1775-III\Advert Schedule 081607.doc

Page 1 of 1

Based upon the recommendation of Mr. Ball, Alderman Notter made motion seconded by Alderman Holder and unanimously carried to authorize advertisement, as set forth above.

\*\*\*\*\*

There came on for consideration a letter from City Engineer David Ball, as follows:

Minutes of August 21, 2007  
Mayor and Board of Aldermen



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

520 33<sup>RD</sup> STREET, GULFPORT MS 39507  
P.O. BOX 1677, GULFPORT, MS 39502

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



August 16, 2007

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

**RE: Authorize Advertisement  
Katrina Water & Sewer Repairs – Harbor**

Gentlemen:

We are nearing completion on Plans & Specifications for the remainder of the repairs of the water and sewer system at the Long Beach Smallcraft Harbor. The work will include the replacement of the remainder of the water main along with the fire hydrants to the south end of the Harbor, and the replacement of the three pump stations in the Harbor area. All of the work included in this Contract is eligible for 100% reimbursement based on the FEMA Project Worksheets currently obligated for the City's recovery.

If the Board wishes to proceed with this work, we recommend the following advertising schedule:

Authorize Advertisement:	August 21, 2007
First Advertisement:	August 31, 2007
Second Advertisement:	September 7, 2007
Receive Bids:	October 2, 2007

Sincerely,

David Ball, P.E.

DB:1770-Harbor

Based upon the recommendation of Mr. Ball, Alderman Notter made motion seconded by Alderman Boggs and unanimously carried to authorize advertisement, as set forth above.

\*\*\*\*\*

Alderman Holder made motion seconded by Alderman Notter and unanimously carried to approve the copier lease agreement by and between Long Beach City Hall and Lanier Worldwide, Inc., authorizing the City Clerk to execute same, as follows:

# Minutes of August 21, 2007

## Mayor and Board of Aldermen

Revised Date: 01/10/2005

RENAL AGREEMENT  
FOR USE BY MISSISSIPPI DEPARIMENIS  
AND VENDORS  
(Applicable to equipment rental transactions)

The Agreement is entered into by and between Long Beach City Hall (hereinafter referred to as "Customer"), and Lanier Worldwide, Inc. (hereinafter referred to as "Vendor"). This Agreement becomes effective upon signature by Customer and Vendor, and shall take precedence over all agreements and understandings between the parties. Vendor, by its acceptance hereof, agrees to rent to Customer, and Customer, by its acceptance hereof, agrees to rent from Vendor, the equipment, including applicable software and services to render it continually operational, listed in Exhibit A, which is attached hereto and incorporated herein.

1. CUSTOMER ACCOUNT ESTABLISHMENT
  - A. A separate Vendor Customer Number will be required for each specific customer/installation location.
  - B. The Customer is identified as the entity on the first line of the "bill-to" address. All invoices and notices of changes will be sent to the "bill-to" address.
  - C. "Ship-to" and/or "Installed-at" address is the location to which the initial shipment of equipment/supplies will be made and the address to which service representatives will respond. Subsequent shipments of supplies for installed equipment will also be delivered to the "installed-at" address unless otherwise requested.
  - D. Unless creditworthiness for this Customer Number has been previously established by Vendors, Vendor's Credit Department may conduct a credit investigation for this Order. Notwithstanding delivery of equipment, Vendor may revoke this Order by written notice to the Customer if credit approval is denied within thirty (30) days after the date this Rental Agreement is accepted for Vendor by an authorized representative.
2. EQUIPMENT SELECTION, PRICES, AND AGREEMENT: The Customer has selected and Vendor agrees to provide the equipment, including applicable software and services to render it continually operational, identified on Exhibit A attached to this Rental Agreement. The specific prices, inclusive of applicable transportation charges, are as set forth on the attached Exhibit A. The parties understand and agree that the Customer is exempt from the payment of taxes.
3. SHIPPING AND TRANSPORTATION: Vendor agrees to pay all non-priority, ground shipping, transportation, rigging and drayage charges for the equipment from the equipment's place of manufacture to the installation address of the equipment as specified under this Agreement. If any form of express shipping method is requested, it will be paid for by Customer.
4. RISK OF LOSS OR DAMAGE TO EQUIPMENT: While in transit, Vendor shall assume and bear the entire risk of loss and damage to the equipment from any cause whatsoever. If, during the period the equipment is in Customer's possession, due to gross negligence of the customer, the equipment is lost or damaged, then, the customer shall bear the cost of replacing or repairing said equipment.
5. DELIVERY, INSTALLATION, ACCEPTANCE, AND RELOCATION:
  - A. DELIVERY: Vendor shall deliver the equipment to the location specified by Customer and pursuant to the delivery schedule agreed upon by the parties. If, through no fault of the Customer, Vendor is unable to deliver the equipment or software, the prices, terms and conditions will remain unchanged until delivery is made by Vendor. If, however, Vendor does not deliver the equipment or software within ten (10) working days of the delivery due date, Customer shall have the right to terminate the order without penalty, cost or expense to Customer of any kind whatsoever.
  - B. INSTALLATION SITE: At the time of delivery and during the period Vendor is responsible for maintenance of the equipment, the equipment installation site must conform to Vendor's published space, electrical and environmental requirements; and the Customer agrees to provide, at no charge, reasonable access to the equipment and to a telephone for local or toll free calls.
  - C. INSTALLATION DATE: The installation date of the equipment shall be that date as is agreed upon by the parties, if Vendor is responsible for installing the equipment.
  - D. ACCEPTANCE: Unless otherwise agreed to by the parties, Vendor agrees that Customer shall have ten

# Minutes of August 21, 2007

## Mayor and Board of Aldermen

Revised Date: 01/10/2005

(10) working days from date of delivery and installation, to inspect, evaluate and test the equipment to confirm that it is in good working order.

- E. RELOCATION: Customer may transfer equipment to a new location by notifying Vendor in writing of the transfer at least thirty (30) calendar days before the move is made. If Vendor is responsible for maintenance of the equipment, this notice will enable Vendor to provide technical assistance in the relocation efforts, if needed, as well as to update Vendor's records as to machine location. There will be no cessation of rental charges during the period of any such transfer. The Vendor's cost of moving and reinstalling equipment from one location to another is not included in this Agreement, and Customer agrees to pay Vendor, after receipt of invoice of Vendor's charges with respect to such moving of equipment, which will be billed to Customer in accordance with Vendor's standard practice then in effect for commercial users of similar equipment or software.
6. RENTAL TERM: The rental term for each item of equipment shall be that as stated in the attached Exhibit A. If the customer desires to continue renting the equipment at the expiration of the original rental agreement, the customer must enter into a new rental agreement which shall be separate from this agreement. There will be no automatic renewals allowed. There shall be no option to purchase.
7. OWNERSHIP: Unless the Customer has obtained title to the equipment, title to the equipment shall be and remain vested at all times in Vendor or its assignee and nothing in this Agreement shall give or convey to Customer any right, title or interest therein, unless purchased by Customer. Nameplates, stencils or other indicia of Vendor's ownership affixed or to be affixed to the equipment shall not be removed or obliterated by Customer.
8. PAYMENTS:
- A. INVOICING AND PAYMENTS: The charges for the equipment, software or services covered by this Rental Agreement are specified in the attached Exhibit A. Charges for any partial month for any item of equipment shall be prorated based on a thirty (30) day month. Vendor shall submit an invoice with the appropriate documentation to Customer. Customer agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," Sections 31-7-301, et. seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment by Customer within forty-five (45) days of the date the invoice is received and the goods are inspected and accepted.
- B. METER READINGS: If applicable, the Customer shall provide accurate and timely meter readings at the end of each applicable billing period on the forms or other alternative means specified by Vendor. Vendor shall have the right, upon reasonable prior notice to Customer, and during Customer's regular business hours, to inspect the equipment and to monitor the meter readings. If Customer meter readings are not received in the time to be agreed upon by the parties, the meter readings may be obtained electronically or by other means or may be estimated by Vendor subject to reconciliation when the correct meter reading is received by Vendor.
- C. COPY CREDITS: If applicable, if a copier is being rented, the Customer will receive one (1) copy credit for each copy presented to Vendor which, in the Customer's opinion, is unusable and also for each copy which was produced during servicing of the equipment. Copy credits will be issued only if Vendor is responsible for providing equipment services or maintenance services (except time and materials maintenance). Copy credits will be reflected on the invoice as a reduction in the total copy volume, except for run length plans which will be credited at a specific copy credit rate as shown on the applicable price list.
9. USE OF EQUIPMENT: Customer shall operate the equipment according to the manufacturer's specifications and documented instructions. Customer agrees not to employ or use additional attachments, features or devices on the equipment or make changes or alterations to the equipment covered hereby without the prior written consent of Vendor in each case, which consent shall not be unreasonably withheld.
10. MAINTENANCE SERVICES, EXCLUSIONS, AND REMEDIES:
- A. SERVICES: If Vendor is responsible for providing equipment services, maintenance services (except for time and materials), or warranty services: (1) Vendor shall install and maintain the equipment and make all necessary adjustments and repairs to keep the equipment in good working order. (2) Parts required for repair may be used or reprocessed in accordance with Vendor's specifications and replaced parts are the property of Vendor, unless otherwise specifically provided on the price lists. (3) Services will be provided during Customer's usual business hours. (4) If applicable,

# Minutes of August 21, 2007

## Mayor and Board of Aldermen

Revised Date: 01/10/2005

Customer will permit Vendor to install, at no cost to Customer, all retrofits designated by Vendor as mandatory or which are designed to insure accuracy of meters.

- B. **EXCLUSIONS:** The following is not within the scope of services: (1) Provision and installation of optional retrofits. (2) Services connected with equipment relocation. (3) Installation/removal of accessories, attachments or other devices. (4) Exterior painting or refinishing of equipment. (5) Maintenance, installation or removal of equipment or devices not provided by Vendor. (6) Performance of normal operator functions as described in applicable Vendor operator manuals. (7) Performance of services necessitated by accident; power failure; unauthorized alteration of equipment or software; tampering; service by someone other than Vendor; causes other than ordinary use; interconnection of equipment by electrical, or electronic or mechanical means with noncompatible equipment, or failure to use operating system software. If Vendor provides, at the request of the Customer, any of the services noted above, the Customer may be billed by Vendor at a rate not to exceed the Master State Prices Agreement between the Vendor and the State of Mississippi, or in the absence of such agreement at the then current time and materials rates.
- C. **REMEDIES:** If during the period in which Vendor is providing maintenance services, Vendor is unable to maintain the equipment in good working order, Vendor will, at no additional charge, provide either an identical replacement or another product that provides equal or greater capabilities.
11. **HOLD HARMLESS:** Vendor agrees that it will, and hereby does, indemnify, defend and hold harmless Customer from and against any and all claims, damages, losses, costs and expenses of every kind and nature, including court costs and attorney fees and claims for damages resulting from or arising out of any infringement claim or claim of bodily injury, death or damage to real or tangible personal property caused by Vendor and/or its partners, principals, agents, employees or subcontractors in the performance of this Agreement. Customer will promptly notify Vendor in writing of any claim to be indemnified hereunder, of which Customer has knowledge, and Vendor in turn will promptly notify Customer of any such claim. Vendor shall, at its sole expense, control the defense of such suit to the extent allowed by Mississippi law. The parties agree to cooperate with one another in the defense of any such matter.
12. **ALTERATIONS, ATTACHMENTS, AND SUPPLIES:**
- A. If Customer makes an alteration, attaches a device or utilizes a supply item that increases the cost of services, Vendor will either propose an additional service charge or request that the equipment be returned to its standard configuration or that use of the supply item be discontinued. If, within five (5) days of such proposal or request, Customer does not remedy the problem or agree in writing to do so within a reasonable amount of time, Vendor shall have the right to terminate this Agreement as provided herein. If Vendor believes that an alteration, attachment or supply item affects the safety of Vendor personnel or equipment users, Vendor shall notify Customer of the problem and may withhold maintenance until the problem is remedied.
- B. Unless Customer has obtained title to the equipment free and clear of any Vendor security interest, Customer may not remove any ownership identification tags on the equipment or allow the equipment to become fixtures to real property.
13. **ASSIGNMENT:**
- A. **BY CUSTOMER:** Without the prior consent of Vendor, which consent shall not be unreasonably withheld, Customer shall not (1) assign, transfer or pledge all or any part of this Agreement or software licensed by Vendor, or (2) resell, lease, lend or permit a lien or encumbrance of any kind against the equipment unless Customer has obtained title to the equipment free and clear of any Vendor security interest.
- B. **BY VENDOR:** Vendor shall not assign its rights or delegate its duties hereunder without the prior written consent of Customer, which consent shall not be unreasonably withheld.
14. **GOVERNING LAW:** This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Vendor expressly agrees that under no circumstances shall Customer be obligated to pay an attorneys fee or the cost of legal action to Vendor. Notwithstanding any other provisions of this Agreement between the parties, all activities and performances of the parties with respect to the equipment, software or services herein shall be subject to all applicable laws, regulations, policies and procedures of the United States of America, or any agency thereof, the State of Mississippi or any agency thereof, or any

# Minutes of August 21, 2007

## Mayor and Board of Aldermen

Revised Date: 01/10/2005

local governments or political subdivisions that may affect the performance of services hereunder.

15. NOTICE: Any notice required or permitted to be given under this Agreement shall be in writing and sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at their usual business address. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other of any change of address.
16. WAIVER: Failure of either party hereto to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement.
17. CAPTIONS: The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or section of this Agreement.
18. SEVERABILITY: If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
19. THIRD PARTY ACTION NOTIFICATION: Vendor shall give Customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Vendor by any entity that may result in litigation related in any way to this Agreement.
20. AUTHORITY TO CONTRACT: Vendor warrants that it is a validly organized business with valid authority to enter into this Agreement. That entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.
21. RECORD RETENTION AND ACCESS TO RECORDS: Vendor shall maintain and make available to Customer, any financial records, supporting documents, statistical records and all other records pertinent to the services performed under this Agreement. These records shall be maintained for at least three (3) years; however, if any litigation or other legal action, by or on behalf of the State has begun that is not completed at the end of the three (3) year period, or if audit findings, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.
22. EXTRAORDINARY CIRCUMSTANCES: If either party is rendered unable, wholly or in part, by reason of strikes, accidents, acts of God, weather conditions or any other acts beyond its control and without its fault or negligence to comply with any obligations or performance required under this Agreement, then such party shall have the option to suspend its obligations or performance hereunder until the extraordinary performance circumstances are resolved. If the extraordinary performance circumstances are not resolved within a reasonable period of time, however, the non-defaulting party shall have the option, upon prior written notice, of terminating the Agreement.
23. TERMINATION: This Agreement may be terminated as follows: (a) Customer and vendor mutually agree to the termination, or (b) If either party fails to comply with the terms and conditions of this Agreement and that breach continues for thirty (30) days after the defaulting party receives written notice from the other party, then the non-defaulting party has the right to terminate this Agreement. The non-defaulting party may also pursue any remedy available to it in law or in equity. Upon termination, all obligations of Customer to make payments required hereunder shall cease.
24. AVAILABILITY OF FUNDS: It is expressly understood and agreed that the fulfillment of the conditions of this agreement by Customer is conditioned upon the receipt of governmental funding. If the funds anticipated for the fulfillment of this Agreement are, at any time, not forthcoming or insufficient, Customer shall have the right to terminate this Agreement, without damage, penalty, cost or expense to Customer of any kind whatsoever.
25. MODIFICATION OR RENEGOTIATION: This Agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the Agreement if federal and/or state revision of any applicable laws or regulations make changes in this Agreement necessary.

Minutes of August 21, 2007  
Mayor and Board of Aldermen

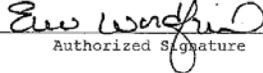
Revised Date: 01/10/2005

26. **WARRANTIES:** Vendor warrants that the equipment, when operated according to the manufacturer's specifications and documented instructions, shall perform the functions indicated by the specifications and documented literature. Vendor may be held liable for any damages caused by failure of the equipment to function according to specifications and documented literature published by the manufacturer of the equipment. The State may be held liable for any damages caused by failure to operate the equipment according to the specifications and documented instructions.
28. **ENTIRE AGREEMENT:** This agreement constitutes the entire agreement of the parties with respect to the equipment, software or services described herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto. No terms, conditions, understandings, usages of the trade, course of dealings or agreements, not specifically set out in this Agreement or incorporated herein, shall be effective or relevant to modify, vary, explain or supplement this Agreement.

For the faithful performance of the terms of this Agreement, the parties have caused this Agreement to be executed by their undersigned representatives

Witness my signature this the 22<sup>nd</sup> day of August, 2007.

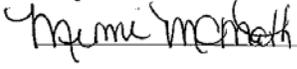
Vendor: Lanier Worldwide, Inc.

By:   
Authorized Signature

Printed Name: Eric Woodfield

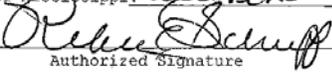
Title: Document Management Solutions

WITNESS:



Witness my signature this the 22<sup>nd</sup> day of August, 2007.

State of Mississippi: LOWA BEACH CITY HALL

By:   
Authorized Signature

Printed Name: ~~MAMI McNATH~~ BECKY SCARUFF

Title: CITY CLERK

WITNESS:



**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

Revised Date: 01/10/2005

EXHIBIT "A"  
RENTAL AGREEMENT  
FOR USE BY  
MISSISSIPPI DEPARTMENTS AND VENDORS  
(Applicable to Equipment Rental Transactions)

The following, when signed by the Customer and the Vendor shall be considered to be a part of the rental agreement between the parties.

Vendor Company Name: Lanier Worldwide, Inc.

Customer Agency Name: Long Beach City Hall

Bill to Address: Long Beach City Hall  
645 Klondyke Rd.  
Long Beach, MS 39560

Ship to Address: Long Beach City Hall  
645 Klondyke Rd.  
Long Beach, MS 39560

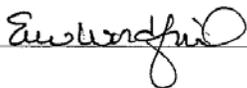
<u>Description of Equipment, Software, or Services</u>	<u>Price</u>
LD345 Copy/Print/Scan	\$249.59
RADF, Reversing Auto Document Feeder	Included
PS530, Paper Bank	24.80
SR880, 2,000 Sheet Finisher	43.50
2/3 Hole Punch, 1045	11.88
Bridge Unit, 2045	2.96
Total:	\$323.73

Delivery Schedule and Installation Date: TBD

Rental Term: Number of Months: 36 Start Date: 9/1/07 End Date: 8/31/10

Modifications:

Lease includes all service, supplies, and network interface charges. Maintenance agreement, included in lease, provides for 6,000 impressions per month, with overages to be charged at \$0.0090 for each impression in arrears.

Vendor Signature  Customer Signature 

\*\*\*\*\*

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

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**



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

520 33<sup>RD</sup> STREET, GULFPORT MS 39507  
P.O. BOX 1677, GULFPORT MS 39502

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



August 16, 2007

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

**RE: Dead Tree Removal – Phase 3  
Final Acceptance - Forestry Contractors, LLC**

Gentlemen:

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

1. Change Order Number 1 (Final), adjusting the contract quantities to conform with the completed work, for a net contract amount decrease of \$65,014.00. The final amount of the contract is \$167,786.00. The contract was based on estimates of trees to be removed at the time of the bid, but there was not as many trees for removal as we predicted.
2. Application for Payment Number 3 (Final), in the amount of \$16,407.30, bringing the total of all payments to the full contract amount.
3. Consent of Surety Company to Final Payment.
4. Contractor's Affidavit of Payment of Debts and Claims.

Sincerely,

David Ball, P.E.

DB:K301-XIII  
Enclosures

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

**CHANGE ORDER**

No 1 FINAL  
Dated 7/18/2007

---

Owner's Project No. \_\_\_\_\_ Engineer's Project No. K301-XIII  
Project Dead Tree Removal Phase Three - Hurricane Katrina  
Owner City of Long Beach

---

Contractor Forestry Contractors, LLC Contract Date 4/18/2007  
Contract For Entire Project

---

To: Forestry Contractors, LLC Contractor:

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

Owner City of Long Beach  
By \_\_\_\_\_  
Date \_\_\_\_\_

---

**Nature of the Change**

Adjust quantities to conform with final field measured quantities.

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	\$ <u>232,800.00</u>
Contract Price Prior to This Change Order	\$ <u>232,800.00</u>
Net (Increase) (Decrease) Resulting from this Change Order	<u>(\$65,014.00)</u>
Current Contract Price Including This Change Order	\$ <u>167,786.00</u>

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

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 June 30, 2007 ..... Calendar Days

---

The Above Changes Are Approved:

A. Garner Russell & Associates, Inc.  
ENGINEER

by 

Date 8/17/07

---

The Above Changes Are Accepted:

Forestry Contractors, LLC.  
CONTRACTOR

by 

Date 8/13/07

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

**ATTACHMENT "A" TO CHANGE ORDER NO. 1 (FINAL AND SUMMARY)**  
**SUMMARY OF ALL CHANGE ORDERS**  
**CITY OF LONG BEACH**  
**DEAD TREE REMOVAL - PHASE THREE**  
**RECAP OF LINE ITEM ADJUSTMENTS**

ITEM NO.	DESCRIPTION	UNITS	UNIT PRICE	ORIGINAL CONTRACT		QUANTITY ADJUSTMENTS C.O. 1	TOTAL	ADJUSTED CONTRACT QUANTITY	EXTENSION THIS C.O.	EXTENSION ALL C.O.'S
				QUANTITY	AMOUNT					
1	Remove & dispose of dead pine tree from public land, 6" to 12" size.	EA.	\$75.00	450	\$ 33,750.00	-80	(80)	370	(\$6,000.00)	\$27,750.00
2	Remove & dispose of dead pine tree from public land, 13" to 24" size.	EA.	\$200.00	576	\$ 115,000.00	-57	(57)	518	(\$11,400.00)	\$103,600.00
3	Remove & dispose of dead pine tree from public land, 25" to 36" size.	EA.	\$318.00	225	\$ 71,550.00	-123	(123)	102	(\$39,114.00)	\$32,436.00
4	Remove & dispose of dead pine tree from public land, above 36" size.	EA.	\$500.00	25	\$ 12,500.00	-17	(17)	8	(\$8,500.00)	\$4,000.00
<b>TOTAL THIS CHANGE ORDER:</b>					<b>\$ 232,800.00</b>				<b>(\$55,014.00)</b>	<b>\$167,786.00</b>

CONTRACT TIME EXTENSION	ORIGINAL CONTRACT	C.O. 1	TOTAL	ADJUSTED TIME
CALENDAR DAYS		0	0	0
CONTRACT COMPLETION DATE	06/30/07	06/30/07		09/30/07

Minutes of August 21, 2007  
Mayor and Board of Aldermen

CONSENT OF  
SURETY COMPANY  
TO FINAL PAYMENT

AIA DOCUMENT G707

OWNER  
ARCHITECT  
CONTRACTOR  
SURETY  
OTHER

RECEIVED  
AUG 13 2007

Bond # 857978

PROJECT: Dead Tree Removal - Phase III  
(name, address)

TO (Owner)

City of Long Beach  
PO Box 929  
Long Beach, MS 39560

ARCHITECT'S PROJECT NO:  
CONTRACT FOR:

CONTRACT DATE:

CONTRACTOR: Forestry Contractors, LLC  
103 West Holly Street - Ellisville, MS 39437

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the  
(here insert name and address of Surety Company)

Evergreen National Indemnity Company  
6140 Parkland Blvd., Suite #300  
Mayfield Heights, OH 44124

, SURETY COMPANY,

on bond of (here insert name and address of Contractor)

Forestry Contractors, LLC  
103 West Holly Street - Ellisville, MS 39437

, CONTRACTOR,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not  
relieve the Surety Company of any of its obligations to (here insert name and address of Owner)

City of Long Beach  
PO Box 929 - Long Beach, MS 39560

, OWNER,

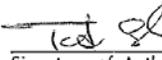
as set forth in the said Surety Company's bond

IN WITNESS WHEREOF,

the Surety Company has hereunto set its hand this 10th day of August 2007

  
Helen Nadirsha

Evergreen National Indemnity Company  
Surety Company

  
Signature of Authorized Representative

Attest:  
(Seal):

Ted Sherman/Attorney-in-Fact  
Title

NOTE: This form is to be used as a companion document to AIA DOCUMENT G706 CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS, Current Edition

AIA DOCUMENT G707 • CONSENT OF SURETY COMPANY TO FINAL PAYMENT • APRIL 1970 EDITION • AIA ©  
© 1970 • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., N.W., WASHINGTON, D.C. 20006

ONE PAGE

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

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

=====

TO: (Owner)		ENGINEER'S PROJECT NO	K-301-XIII
<u>City of Long Beach</u>		CONTRACT FOR:	<u>Entire Project</u>
<u>P. O. Box 929</u>		CONTRACT DATE:	<u>4/18/2007</u>
<u>Long Beach, MS 39560</u>			

PROJECT: Removal of Dead Pine Trees-Phase 3

=====

State of: Mississippi  
County of: Harrison

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 )

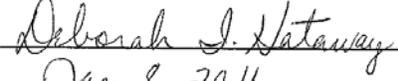
None

=====

CONTRACTOR: Forestry Contractors, LLC  
P. O. Box 621  
Ellisville, MS 39437

BY: 

Subscribed and sworn to before me this 13 day of August, 2007.

Notary Public:   
My Commission Expires: Jan. 8, 2011

=====

ONE PAGE

Based upon the recommendation of Mr. Ball, Alderman Holder made motion seconded by Alderman Notter and unanimously carried to approve final acceptance, Dead Tree Removal – Phase 3, Forestry Contractors, LLC, all as set forth above.

\*\*\*\*\*

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

**Minutes of August 21, 2007**  
**Mayor and Board of Aldermen**



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

520 33<sup>RD</sup> STREET, GULFPORT, MS 39507  
P.O. BOX 1677, GULFPORT, MS 39502

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



August 16, 2007

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

**RE: Long Beach Police Station – General Contract**

Gentlemen:

We have received the attached proposed Change Order for the referenced contract from Lou Traina, the engineer with Capital Engineering who designed the work. The purpose of this Change Order is to install electrical water heaters in the Police Station, as opposed to the gas water heaters which were originally bid. Although this does lead to a net contract increase, the additional cost should be eligible for FEMA funding because both the Police and Fire Chief recalled that the water heaters in the existing building were electrical. We are therefore merely replacing the water heaters "in-kind" with no change; which is the best way to avoid any deobligated funding from FEMA. While the cost for the electrical water heaters seems a bit high, Mr. Traina has assured me that he has verified the cost of these commercial-grade electrical water heaters and finds the Contractor's price to be reasonable. We therefore recommend approval of the Change Order in accordance with Mr. Lou Traina's recommendation, contingent upon review of the Change Order by FEMA/MEMA personnel.

Sincerely,

David Ball, P.E.

DB:K308-Police  
Enclosure

cc: Anthony Long, MEMA PAC  
Dawn Hayes, MEMA PO

# Minutes of August 21, 2007 Mayor and Board of Aldermen

## Change Order

No. 1

Date of Issuance: <u>08/16/07</u>		Effective Date: <u>08/16/07</u>
Project: Hurricane Katrina Recovery City of Long Beach Long Beach Police Station Replacement	Owner: City of Long Beach MS	Owner's Contract No :
Contract: Entire Project		Date of Contract: <u>02/9/07</u>
Contractor: Flagstar Construction Company Inc		Engineer's Project No : <u>8010</u>

**The Contract Documents are modified as follows upon execution of this Change Order:**

Description: Delete three natural gas water heaters and replace with 3 electric water heaters. Delete piping and electrical work associated with the deletion of 3 natural gas water heaters, and add piping and electrical work associated with three electric water heaters

**Attachments:**

Letter from Contractor identifying price change for deleted and added work.

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price:  <u>\$1,674,700.00</u>	Original Contract Times: <input type="checkbox"/> Working days <input checked="" type="checkbox"/> Calendar days Substantial completion (days or date): <u>150 days</u> Ready for final payment (days or date): <u>150 days</u>
[Increase] [Decrease] from previously approved Change Orders No <u>0</u> to No <u>0</u> :  <u>\$ 0</u>	[Increase] [Decrease] from previously approved Change Orders No <u>0</u> to No <u>0</u> : Substantial completion (days): <u>0</u> Ready for final payment (days): <u>0</u>
Contract Price prior to this Change Order:  <u>\$ 1,674,700.00</u>	Contract Times prior to this Change Order: Substantial completion (days or date): <u>150 days</u> Ready for final payment (days or date): <u>150 days</u>
Increase [Decrease] of this Change Order:  <u>\$ 7,143.00</u>	[Increase] [Decrease] of this Change Order: Substantial completion (days or date): <u>0</u> Ready for final payment (days or date): <u>0</u>
Contract Price incorporating this Change Order:  <u>\$ 1,681,843.00</u>	Contract Times with all approved Change Orders: Substantial completion (days or date): <u>150 days</u> Ready for final payment (days or date): <u>150 days</u>

RECOMMENDED: By: <u><i>Tom A. Truina</i></u> Engineer (Authorized Signature)	ACCEPTED: By: _____ Owner (Authorized Signature)	ACCEPTED: By: _____ Contractor (Authorized Signature)
Date: <u>08/16/07</u>	Date: _____	Date: _____
Approved by Funding Agency (if applicable): _____	Date: _____	

# Minutes of August 21, 2007

## Mayor and Board of Aldermen

### Change Order Instructions

---

#### A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

#### B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

Minutes of August 21, 2007  
Mayor and Board of Aldermen



14116 CUSTOMS BLVD. STE. 105  
(228) 822-4720  
rdlawrence101@bellsouth.net

GULFPORT, MS - 39503  
FAX: (228) 822-4768  
www.flagstarconstruction.com

Lou Traina  
Capital Engineering, Inc.  
6933 Indianapolis Blvd.  
Hannond, IN 46324

08/15/07

RE: Long Beach Police Station

The following is the cost to change the water heaters from gas to electric:

- a. electrical work to install conduit, wire, breakers and electrical connections - add \$2850.00 to three 50 gallon water heaters.
- b. plumbing: delete three gas water heaters and associated gas piping and add three 3-phase 50 gallon electric water heaters

Subtotal	- add \$5750.00
Tax & Bond	- add \$ 322.00
P&O	- add \$1071.00
Total add	- add \$7143.00

This price is revised to reflect using model M-II-50-KW-3SF instead of the unit we quoted, model LD-50S3-3.

ROBERT D. LAWRENCE

A handwritten signature in black ink, appearing to read "R. Lawrence", written over a horizontal line.

PROJECT MANAGER

Gulfport Office: 14116 CUSTOMS BLVD, STE 105 · GULFPORT, MS · 39503

(228) 822-4720

FAX: (228) 822-4768

Minutes of August 21, 2007  
Mayor and Board of Aldermen

08/13/2007 08:58 2288630278

ALLEN PLUMBING CO

Page 01/1

**ALLEN PLUMBING CO.,INC.**

P.O. BOX 6787  
GULFPORT, MS. 39506

PH. 228-864-3009  
FAX 228-863-0270

**CHANGE ORDER**

JOB NAME: LONG BEACH POLICE DEPARTMENT

CONTRACTOR: FLAGSTAR CONSTRUCTION

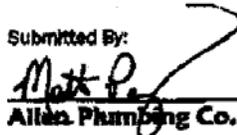
DATE: AUGUST 13, 2007

**\*\*THIS PRICE SUPERCEDES CHANGE ORDER DATED JULY 19, 2007\*\***

12KW 3PHASE 208VOLT WATER HEATERS	\$5250.00
CREDIT FOR 3 50GALLON GAS FIRED HEATERS	-\$1350.00
CREDIT FOR GAS PIPING AND LABOR TO HEATERS	-\$1000.00

**BID AMOUNT.....\$2,900.00**

NOTES: Ms state sales tax not included in bid amount. Fire caulking and fire protection not included in bid amount. Sewer and water tap fees/deposits not included in bid amount.

Submitted By:  
  
Allen Plumbing Co., Inc.

Accepted By:  
\_\_\_\_\_  
Authorized Representative

Based upon the recommendation of Mr. Ball, Alderman Notter made motion seconded by Alderman Holder and unanimously carried to approve Change Order Number 1, Long Beach Police Station General Contract, Flagstar Construction, all as set forth above.

\*\*\*\*\*

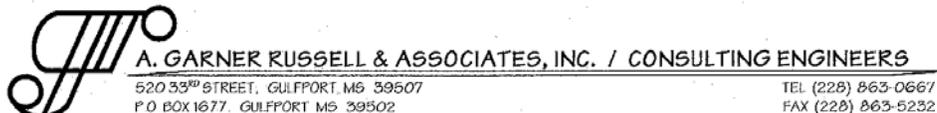
There came on for consideration proposed contracts from Dunn and Associates, P. A., for architectural services for repairs and retrofit to Fire Stations 1 and 3. Upon discussion, Alderman Holder made motion seconded by Alderman Boggs and unanimously carried directing the City Attorney to work in conjunction with Dunn and

**Minutes of August 21, 2007  
Mayor and Board of Aldermen**

Associates to amend the proposed agreement for consideration at the next regular meeting, September 4, 2007.

\*\*\*\*\*

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



August 17, 2007

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

**RE: Change Order No. 1  
Drainage System Cleaning**

Gentlemen:

All of the work on this project is complete, and we are producing a Punchlist along with a Certificate of Substantial Completion, which we expect to issue soon, along with the other documents required for final acceptance of a project. However, during the construction of this work, the Contractor encountered significantly more drainage culverts to be cleaned than was originally obligated by FEMA, who used a "windshield survey" of the City's drainage system south of CSX to estimate quantities. We reported the additional quantities to FEMA and waited about a month and a half to receive the "go ahead" to complete the additional work. In light of the additional work and the time required for the additional work, the Contractor has requested a Change Order for additional Maintenance of Traffic. The amount requested is only a 26% increase for Maintenance of Traffic, although they Contractor cleaned about 50% more pipe. We therefore recommend approval of this Change Order.

Incidentally, there will also be a Change Order on this job to adjust the Contract Time and Contract Quantities to the final amounts. That Final Change Order will be included in the final documentation for approval.

Sincerely,

David Ball, P.E.

DB:1794  
Enclosure

cc: Sean Anthony

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Mayor and Board of Aldermen**

**CHANGE ORDER**

No 1

Dated 8/16/2007

---

Owner's Project No \_\_\_\_\_ Engineer's Project No 1794

Project Drainage System Cleaning

Owner City of Long Beach

---

Contractor S.H. Anthony, Inc. Contract Date \_\_\_\_\_

Contract For Entire Project

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To: S.H. Anthony, 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

1. Add additional item of work for Maintenance of Traffic for the increased length of pipe cleaned beyond the original Scope of Work

Enclosures:

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

Original Contract Price	<u>\$259,191.00</u>
Contract Price Prior to This Change Order	<u>\$259,191.00</u>
Net Increase Resulting from this Change Order	<u>\$4,277.41</u>
Current Contract Price Including This Change Order	<u>\$ 263,468.41</u>

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Contract Time Prior to This Change Order	120	Calendar Days
Net (Increase) (Decrease) Resulting From This Change Order	-	Calendar Days
Current Contract Time Including This Change Order	120	Calendar Days

---

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

by \_\_\_\_\_

Date \_\_\_\_\_

---

The Above Changes Are Accepted: S.H. Anthony, Inc.  
CONTRACTOR

by \_\_\_\_\_

Date \_\_\_\_\_

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ATTACHMENT TO CHANGE ORDER NO. 1 PROJECT NO. 1794

ITEM NO.	ITEM	PLAN QUANTITY	UNIT PRICE	EXTENSION	QUANTITY THIS C.O.	EXTENSION THIS C.O.	REVISED CONTRACT QUANTITY	REVISED CONTRACT EXTENSION
1-A	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (12")	20,650 L.F.	\$3.40	\$70,210.00			20,650	\$70,210.00
1-B	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (15"/18"x11")	13,041 L.F.	\$3.40	\$44,339.40			13,041	\$44,339.40
1-C	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (18"/22"x13")	12,223 L.F.	\$3.40	\$41,558.20			12,223	\$41,558.20
1-D	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (24"/29"x18")	10,767 L.F.	\$3.40	\$36,607.80			10,767	\$36,607.80
1-E	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (30"/36"x23")	1,230 L.F.	\$3.40	\$4,182.00			1,230	\$4,182.00
1-F	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (36"/44x27")	914 L.F.	\$3.40	\$3,107.60			914	\$3,107.60
1-G	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (42"/51"x31")	600 L.F.	\$3.40	\$2,040.00			600	\$2,040.00
1-H	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (48"/66"x36")	830 L.F.	\$3.40	\$2,822.00			830	\$2,822.00
1-I	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (60"/73"x45")	280 L.F.	\$3.40	\$952.00			280	\$952.00
1-J	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE PIPE (72"/88"x54")	580 L.F.	\$3.40	\$1,972.00			580	\$1,972.00
1-K	CLEAN AND REMOVE SAND AND DEBRIS FROM DRAINAGE STRUCTURE	350 EA.	\$75.00	\$26,250.00			350	\$26,250.00
1-L	CLEAN AND REMOVE SAND AND DEBRIS FROM BOX CULVERT	100 C.Y. (LVM)	\$89.00	\$8,900.00			100	\$8,900.00
23-A	MAINTENANCE OF TRAFFIC	1 L.S.	\$16,250.00	\$16,250.00			1	\$16,250.00
23-B	ADD'L MAINTENANCE OF TRAFFIC	0 L.S.	\$4,277.41	\$0.00	1	\$4,277.41	1	\$4,277.41
<b>TOTAL BID</b>				<b>\$259,191.00</b>		<b>\$4,277.41</b>		<b>\$263,468.41</b>

Based upon the recommendation of Mr. Ball, Alderman Burton made motion seconded by Alderman Holder and unanimously carried to approve Change Order Number 1, S. H. Anthony, Inc., Drainage System Cleaning contract, all as set forth above.

\* \* \* \* \*

Alderman Burton made motion seconded by Alderman Holder and unanimously carried to approve the placement of an RV/travel trailer, 123 Sea Oaks Boulevard, as requested by Marla A. McCarthy, for re-evaluation October 1, 2007.

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\*\*\*\*\*

Alderman Burton made motion seconded by Alderman Boggs and unanimously carried authorizing the Mayor's secretary, Charlene Stogner, to draft a letter to businesses on Highway 90, requesting that they remove their pole signs, in accordance with the Long Beach sign ordinance.

\*\*\*\*\*

Upon discussion, it was determined that the Mayor will contact the Sand Beach Authority regarding removal of the damaged boardwalk along Highway 90 and discuss plans for replacement.

\*\*\*\*\*

Discussion was held regarding the replacement of flag poles and lighting of flags. It was determined that Chief George Bass is obtaining quotes for consideration at a later date.

\*\*\*\*\*

There were no public comments.

\*\*\*\*\*

The Mayor recognized the City Attorney for his report and action was taken, as follows:

Alderman Bennett made motion seconded by Alderman Holder and unanimously carried to approve administrative contracts, Jimmy G. Gouras, Urban Planning Consultants, Inc., authorizing the Mayor to execute same, as follows:

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## Mayor and Board of Aldermen

### AGREEMENT

THIS AGREEMENT made and entered into this 28<sup>th</sup> day of AUGUST 2007, by and between the City of Long Beach, Mississippi (hereinafter referred to as "Grantee"), and Jimmy G. Gouras, Urban Planning Consultants, Inc., (hereinafter referred to as "Contracted Party"), who agree and contract as follows:

### WITNESSETH THAT:

WHEREAS, the Grantee is the recipient of Katrina Supplemental CDBG Program Round I Planning Grant funds from the Mississippi Development Authority for Project #R-103-235-01-KP for the preparation of a Comprehensive Plan, preparation of an up-to-date Zoning Ordinance and Map, Subdivision Regulations, and Architectural Design Standards; and

WHEREAS, the Grantee was severely impacted by Hurricane Katrina, said impact including, among other things, housing, community facilities, transportation systems, land use, and land development patterns; and

WHEREAS, the pre-Katrina Comprehensive Plan, Zoning Ordinance and Map, and Subdivision Regulations need to be updated, and Architectural Design Standards need to be prepared to properly guide the community's rebuilding and recovery; and

WHEREAS, the Grantee has requested proposals for professional CDBG administrative and management consultants to assist the Grantee in the administration and management of the CDBG planning grants; and

WHEREAS, the firm of Jimmy G. Gouras, Urban Planning Consultants, Inc. was selected by the Grantee to provide CDBG administrative and management services.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

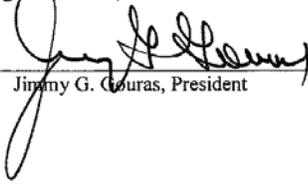
1. Employment of Contracted Party. The Grantee hereby agrees to employ the Contracted Party, and the Contracted Party hereby agrees to perform services set forth hereinafter in connection with the Katrina Supplemental CDBG Planning Grant, which will be financed by grant funds under a Planning Grant from the Mississippi Development Authority (MDA).
2. Scope of Services. The Contracted Party agrees to satisfactorily render and provide services hereinafter set forth in Exhibit "A", Scope of Services.
3. Disposition of Work. All contract documents and similar work materials prepared by the Contracted Party in completing the scope of services, set forth as Exhibit "A", shall be the property of the Grantee.
4. Period of Performance. The services provided under this Agreement by the Contracted Party shall continue as long as is mutually agreeable to the parties hereto or until the project is closed out. The terms of the Agreement, specifically the "Scope of Services" and "Compensation" to the Contracted Party can, however, be reviewed annually and modified as is mutually agreeable to the two parties.
5. Termination for Convenience of Contracted Party. The Contracted Party may terminate this Agreement at any time by giving written notice to the Grantee of such termination and specifying the effective date thereof. Such written notice shall be furnished the Grantee at least thirty (30) days before the effective date of termination. In that event, all finished or unfinished documents and other materials shall become the property of the Grantee. In the event of termination for convenience by Contracted Party, all payments, after the date of termination, shall be forfeited to the Grantee, and any obligation by the Local Government to the Consultant shall be terminated.

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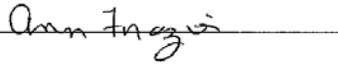
6. Compensation Due to Contracted Party. The Grantee agrees to pay and the Contracted Party agrees to perform the services for a lump sum of Twenty thousand dollars (\$20,000.00). The Contracted Party shall invoice the Grantee in accordance with the payment schedule set forth in Exhibit "B".
7. Special Provisions and Regulations – U. S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program: If applicable, Contracted Party agrees to comply with all special provisions and regulations required by HUD as set out in "Exhibit C". The term "Applicant" in this exhibit is synonymous with the term "Grantee".
8. Certifications and Assurances – U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program: If applicable, Contracted Party agrees to comply with all certifications and assurances required by HUD and the Mississippi Development Authority as set out in "Exhibit D". The term "Applicant" in this exhibit is synonymous with the term "Grantee".
9. Successors and Assigns: The Grantee and Contracted Party each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns, or such party, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the Grantee and the Contracted Party.
10. Miscellaneous Provisions. This Agreement shall be construed in accordance with the laws of the State of Mississippi. In case one or more of the provisions in the Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, non-enforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. Any amendments to this Agreement shall not be effective unless consented to, in writing, by both parties.

IN WITNESS WHEREOF, the City of Long Beach and the Contracted Party have executed this Agreement this the 28<sup>th</sup> day of AUGUST 2007.

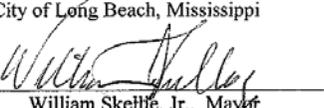
Jimmy G. Gouras Urban  
Planning Consultants, Inc.

By:   
Jimmy G. Gouras, President

ATTEST:



The City of Long Beach, Mississippi

By:   
William Skellie, Jr., Mayor

ATTEST:



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### EXHIBIT "A" SCOPE OF SERVICES

The Contracted Party shall do, perform, and carry out in a satisfactory and proper manner such work as the Grantee determines is necessary to accomplish the activities funded by the Katrina Supplemental Community Development Block Grant Program and specifically, the Planning Grant Program. Specific job tasks that the Contracted Party shall assist the Grantee in performing include, but are not necessarily limited to, the following:

A. **Application Preparation**

B. **General Services**

1. Establish a filing system to keep and maintain the necessary records as appropriate for implementation of the grant in accordance with applicable federal, state, and local rules and regulations. The filing system and records shall include, among other things, the following records:

- a. Citizen Participation
- b. Environmental
- c. Procurement
- d. Financial Management
- e. Other Resources
- f. Equal Opportunity
- g. General Correspondence

C. **The Contracted Party shall be responsible for:**

1. Overall coordination of project activities;
2. Attending State monitoring visits, meetings, etc;
3. Establishing and maintaining financial records;
4. Preparing the necessary documentation to request funds from the State; and
5. Providing all other services considered normal administrative services within the course of this Agreement.

D. **Close-Out Project**

The contracted party shall prepare close-out documents required by the State.

The Contracted Party shall be available at all times to assist the Grantee in performing such work in a satisfactory and proper manner as the Grantee deems necessary under this program. Specific job tasks that we, as the Contracted Party, shall perform shall not be limited to the above, but would conform to the specific needs of the Grantee.

# Minutes of August 21, 2007 Mayor and Board of Aldermen

## EXHIBIT "B"

### COMPENSATION DUE TO CONTRACTED PARTY and METHOD OF PAYMENT

The Grantee agrees to pay the Contracted Party in two phases. Phase I will include all services rendered pertaining to the application preparation, and Phase II will include all services rendered pertaining to administration and implementation of the Katrina Supplemental Community Development Block Grant Planning Project.

<b>Phase I</b>		
1.	Application Preparation	\$ 2,500
<b>Phase II</b>		
1.	Completion of Environmental Review Procedure	1,000
2.	For services from Notification of Grant Award to Release of Funds from the Mississippi Development Authority including, but not limited to: draft letter appointing Equal Opportunity and Labor Compliance Officer; draft letter appointing FSP Manual Coordinator; establishment of Grantee's record keeping and financial management system in accordance with all Federal and State laws and regulations; preparation of a Fair Housing Resolution; preparation of a Code of Conduct and Procurement Procedures; assist the Grantee in procuring professional services as needed; establish a filing system; document eligibility of each CDBG activity; designate and document slum and blighted areas; preparation of contracts for professional services; preparation of cost analysis for procurement of each professional service; review and approve grant agreements; and any other services necessary to implement the Grantee's project.	1,500
3.	Beginning with the first month following the execution of the Contracts for Planning Services, the Contracted Party will submit monthly invoices in the amount of \$1,166.67 for services rendered as outlined in items A, B, and C in the Scope of Services. Invoices will be submitted for twelve (12) consecutive months.	14,000
4.	Retainage for acceptance and approval of close-out documents by the Mississippi Development Authority.	1,000
	<b>Total Compensation</b>	<b>\$20,000</b>

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### EXHIBIT "C "

#### SPECIAL PROVISIONS AND REGULATIONS

##### STIPULATED BY

#### THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

For the purpose of clarification, the Contracted Party shall refer to the firm providing professional services to the Grantee as specified in the contract to which this document is attached.

1. **Access of Grantee, State of Mississippi, HUD and Others to CDBG Documents, Papers, and Books**

The Contracted Party agrees to allow the Grantee, State of Mississippi, HUD, the Comptroller General of the United States, and any of their duly authorized representatives access to any books, documents, papers, and records of the Contracted Party which are directly pertinent to the CDBG Program for the purpose of making audits, examinations, excerpts, and transcriptions.

2. **Termination of Contract For Cause**

If, through any cause, the Contracted Party shall fail to fulfill in timely and proper manner, his obligations under this Contract, or if the Engineer shall violate any of the covenants, agreements, or stipulations of this Contract, the Grantee shall thereupon have the right to terminate this Contract by giving written notice to the Contracted Party of such termination and specifying the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contracted Party shall entitle the Contracted Party's receipt of just and equitable compensation for any satisfactory work completed on such documents.

Notwithstanding the above, the Contracted Party shall not be relieved of liability to the Grantee for damages sustained or the Grantee by virtue of any breach of the Contract by the Contracted Party. The Owner may withhold any payments to the Contracted Party for the purpose of set off until such time as the exact amount of damages due the Grantee from the Contracted Party is determined.

3. **Termination for Convenience of the Grantee**

The Grantee may terminate this Contract any time by a notice in writing from the Grantee to the Contracted Party. If the Contract is terminated by the Owner as provided herein, the Contracted Party will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contracted Party covered by this Contract, less payments of compensation previously made provided that if less than sixty percent of the services covered by this Contract have been performed upon the effective date of such termination, the Contracted Party shall be reimbursed (in addition to the above payment) for that portion of actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the

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Contracted Party during the Contract period which are directly attributable to the incomplete portion of the services covered by this Contract.

#### 4. Records

All records required to be kept on the project shall be maintained for at least three years after final payments and until all other pending matters under the grant are closed.

#### 5. Health and Safety Standards

All parties participating in this project agree to comply with Section 107 of the Contract Work Hours and Safety Standards Act. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

#### 6. Environmental Compliance

Contracts, subcontracts, and subgrants of amounts in excess of \$100,000.00 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1957 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR, 15), which prohibit the use under nonexempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The provisions shall require reporting of violations to the grantor agency and the U.S. EPA Assistant Administrator for Enforcement (EN-329).

#### 7. Energy Efficiency

All participants in the projects shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

#### 8. Changes

The Grantee may, from time to time, request changes in the scope of the services of the Contracted Party to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contracted Party's compensation which are mutually agreed upon by and between the Grantee and the Contracted Party, shall be incorporated in written amendments to this Contract.

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### 9. Personnel

The Contracted Party represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Grantee.

All the services required hereunder will be performed by the Contracted Party or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

### 10. Anti-Kickback Rules

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Engineer and contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

### 11. Withholding of Salaries

If in the performance of this Contract, there is any underpayment of salaries by the Contracted Party or by any subcontracted thereunder, the Grantee shall withhold from the Contracted Party out of payment due to him an amount sufficient to pay to employees underpaid the difference between the salaries required thereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the Grantee for and on account of the contracted party or subcontractor to the respective employees to whom they are due.

### 12. Claims and Disputes Pertaining to Salary Rates

Claims and disputes pertaining to salary rates or to classifications of professional staff or technicians performing work under this Contract shall be promptly reported in writing by the Contracted Party to the Grantee for the latter's decision which shall be final with respect thereto.

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### 13. Equal Employment Opportunity

During the performance of this Contract, the Contracted Party agrees to comply with Executive Order 11246, and the regulations issued pursuant thereto (24 CFR 130 and 41 CFR Chapter 60), which provides that no person shall be discriminated against on the basis of race, color, religion, gender, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts, contractors and subcontractors on Federal and Federally assisted construction contracts shall take affirmative action to ensure fair treatment in employments, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates or pay or other forms of compensation and selection for training apprenticeship.

### 14. Anti-Discrimination Clauses

The Contracted Party will comply with the following clauses:

1. Title VI of the Civil Rights Act of 1964 (PL 88-352), and the regulations issued pursuant thereto (24 CFR 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits;
2. Title VIII of the Civil Rights Act of 1968 (PL 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and taking action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services; and,
3. Executive Order 11063, as amended by Executive Order 12259, on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance Section 109 of the Housing and Community Development Act of 1974, as amended which requires that no person in the United States shall on the grounds of race, color, national origin, or gender be excluded from participation in, be denied the benefits or be subjected to discrimination under, any program or activities funded in whole or in part with community development funds made available pursuant to the Act. Section 109 further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 796) shall also apply to any such program or activity.

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**15. Section 3 Clause**

The Contracted Party will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 17010) requiring that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project area be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

**16. Discrimination Because of Certain Labor Matters**

No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because he has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his employer.

**17. Compliance with Local Laws**

The Contracted Party shall comply with all applicable laws, ordinances, and codes of the state and local governments, and shall commit no trespass on any public or private property in performing any of the work embraced by this Contract.

**18. Subcontracting**

None of the services covered by this Contract shall be subcontracted without prior written consent of the Grantee. The Contracted Party shall be as fully responsible to the Grantee for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by him. The Contracted Party shall insert in each subcontract appropriate provisions requiring compliance with the labor standards provisions of this Contract.

**19. Assignability**

The Contracted Party shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Grantee provided that claims for money due or to become due the Contracted Party from the Grantee under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

**20. Interest of Members of Local Public Agency and Others**

The Contracted Party agrees to establish safeguards to prohibit employees from using positions for a purpose that is or give the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie.

The Contracted Party will comply with Section 25-4-105, Mississippi Code Annotated (1972), which prohibits any public servant from using his official position to obtain

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pecuniary benefits for himself other than compensation provided for by law or for any relative or business with which he is associated and which further provides that a public servant may not be interested, during the term for which he has been chosen, or within one (1) year thereafter, in any contract made or let by the governing authorities of such municipality for the construction or doing of any public work, or for the sale or purchase of any materials, supplies or property of any description, or for any other purpose whatsoever, or in any subcontract arising therefrom or connected therewith, or to receive, either directly or indirectly, any portion or share of any money or other thing paid for the construction or doing of any public work, or for the sale or purchase of any property, or upon any other contract made by the governing authorities of the municipality, or subcontract arising therefore or connected therewith.

The Contracted Party will also be aware of and avoid any violation of Sections 25-4-117 and 25-4-119, Mississippi Code Annotated (1972), which prescribes a criminal penalty for any public servant convicted of a violation of this Ethics in Government section.

**21. Interest of Certain Federal Officers**

No member of or delegate to the Congress of the United States and no Resident Commissioner, shall be admitted any share or part of this Contract or to any benefit to arise therefrom.

**22. Interest of Contractor**

The Contracted Party covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contracted Party further covenants that in the performance of this Contract no person having any such interest shall be employed.

**23. Political Activity**

The Contracted Party will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

**24. Davis-Bacon Act Requirements**

The Contracted Party will comply with Section 110 of the Housing and Community Development Act of 1974, as amended, which requires that all laborers and mechanics employed by contractors or subcontractors on construction work assisted under the Act shall be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended 40 U.S.C. 276a-276-a5), and it will comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*). However, these requirements apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families.

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## Mayor and Board of Aldermen

**25. Uniform Act Requirements**

The Contracted Party will comply with all applicable requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630) as specified in regulations issued by the Secretary of the Department of Housing and Urban Development and published in 24 CFR 570-1.

**26. Lead-Based Paint Requirements**

The Contracted Party will comply with Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831), which prohibits the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance in any form.

**27. Compliance with Office of Management and Budget**

The parties agree to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, and A-54, as they relate to the use of Federal funds under this contract.

**28. Flood Insurance Purchase Requirements**

Both parties agree to comply with the flood insurance purchase requirements of Section 102(2) of the Flood Disaster Protection Act of 1973, (PL 93-234, 87 Stat. 975) approved December 31, 1976. Section 102 (a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase, "Federal financial assistance," includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

**29. Historic Preservation**

Both parties agree to assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1966 (16 USC 469a-1 *et seq.*) by (a) consulting with the State Historic Preservation officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (CFR Part 600.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency and the state grantor agency to avoid or mitigate adverse effects upon such properties.

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### 30. Program Monitoring

Both parties agree to assist and cooperate with the Federal grantor agency and the state grantor agency or their duly designated representatives in the monitoring of the project or projects to which this grant relates, and to provide in form and manner approved by the state grantor agency such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.

### 31. Discrimination Due to Beliefs

No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

### 32. Confidential Findings

All of the reports, information, data, etc., prepared or assembled by the Contracted Party under this Contract are confidential, and the Contracted Party agrees that they shall not be made available to any individual or organization without prior written approval of the Grantee.

### 33. Third-Party Contracts

The Grantee shall include in all contracts with Participating Parties receiving grant funds provisions requiring the following:

1. Each such Participating Party keeps and maintains books, records, and other documents relating directly to the receipt and disbursement of such grant funds; and,
2. Any duly authorized representative of the Mississippi Development Authority, the U.S. Department of Housing and Urban Development, and the Comptroller General of the United States shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of such Participating Party until the completion of all close-out procedures respecting this grant and the final settlement and conclusion of all issues arising out of this grant.

The Grantee shall include in all contracts with Participating Parties a provision that each Participating Party agrees that any duly authorized representative of the Mississippi Development Authority, the U.S. Department of Housing and Urban Development, and the Comptroller General of the United States shall, at all reasonable times, have access to any portion of the Project in which such Participating Party is involved until the completion of all close-out procedures respecting this grant.

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Both parties agree to assist and cooperate with the Federal grantor agency and the state grantor agency or their duly designated representatives in the monitoring of the project or projects to which this grant relates, and to provide in form and manner approved by the state grantor agency such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.

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The Grantee shall include in all contracts with Participating Parties a provision that each Participating Party agrees that any duly authorized representative of the Mississippi Development Authority, the U.S. Department of Housing and Urban Development, and the Comptroller General of the United States shall, at all reasonable times, have access to any portion of the Project in which such Participating Party is involved until the completion of all close-out procedures respecting this grant.

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### 34. Excessive Force

The contracted parties will adopt and enforce a policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

### 35. Architectural Barriers Act and Americans with Disabilities

The contracted parties will comply with the Architectural Barriers Act and the Americans with Disabilities as described in 24 CFR Sec 487 (e).

### 36. Environmental

The applicant will:

- (1) Comply with Section 104(f) of the Housing and Community Development Act of 1974, as amended, which requires compliance with the policies of the National Environmental Policy Act of 1969 (NEPA) and other provisions of law which further the purposes of the National Environmental Policy Act. Such other provisions of law which further the purposes of the NEPA are specified in regulations issued pursuant to Section 104(f) of the Housing and Community Development Act of 1974, as amended, and are contained in 24 CFR Part 58; and
- (2) Assume all of the responsibilities for environmental review, decision making, and action as specified and required in regulations issued by the Secretary of Housing and Urban Development pursuant to Section 104(f) of the Housing and Community Development Act of 1974, as amended, and published in 24 CFR Part 58.

Its chief executive officer or other officer of applicant:

- (1) Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58; and
- (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibilities as such an official.

It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archeological and Historic Data Act of 1966 (16 U.S.C. 469 a-1, et seq) by:

- (1) Consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects of the proposed activities; and

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- (2) Complying with all requirements established by HUD to avoid or mitigate adverse effects upon such properties.

It will comply with Executive Order Number 12898, issued February 11, 1994, by:

- (1) Focusing attention on the environment and health conditions in minority and low-income communities; and
- (2) Fostering non-discrimination in federal programs that substantially affect human health and the environment; and
- (3) Providing minority and low-income communities with access to information on, and opportunities for public participation in, matters relating to human health and the environment.

### **37. Uniform Relocation**

It will comply with the Uniform Relocation Assistance and Real Property acquisition policies Act of 1970, as amended, and Federal Implementing regulation at 49 CFR Part 24, and the requirements of Section 570.496a (including the requirement to provide a certification that the recipient is following a residential antidisplacement and relocation assistance plan under Section 104(d)) of the Act.

### **38. Code of Standards of Conduct**

It will establish a written Code of Standards of Conduct to prohibit any of its officers, employees, and agents from using his/her position in any manner or matter, which would have the purpose or effect of a conflict of interest, real or apparent. In order to properly implement this provision, it will fully comply with the requirements of 24 CFR, Part 85.36.

### **39. Hatch Act**

It will comply with the provisions of the Hatch Act 5 U.S.C. 1501 et seq), which limits the political activity of employees.

### **40. Lead Based Paint**

It will comply with Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831), which prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance in any form.

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### 41. Use of Influence

The chief elected official certifies, to the best of his or her knowledge and belief, that:

- (1) No federally appropriated funds have been paid or will be paid, by or on behalf of the chief elected official, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the chief elected official shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

### 42. Cost Overruns

The subgrantee agrees to and understands that the CDBG award is limited to the amount under this agreement. Any cost overruns will be the sole responsibility of the subgrantee.

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### EXHIBIT "D"

#### CERTIFICATIONS/ASSURANCES

Certifications for applicants, waiver and alternative requirement. Section 91.325 of title 24 Code of Federal Regulations is waived. Each applicant must make the following certifications prior to receiving a CDBG disaster recovery grant:

- a. The applicant certifies that it will affirmatively further fair housing, which means that it will use the States analysis to identify impediments to fair housing choice within the applicants area, take appropriate actions to overcome the effects of any impediments identified through the States analysis, and maintain records reflecting the actions taken in this regard. (See 24 CFR 570.487(b)(2)(ii).)
- b. The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG program.
- c. The applicant certifies its compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.
- d. The applicant certifies it possesses the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.
- e. The applicant certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for this grant.
- f. The applicant certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.
- g. The applicant certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 and 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).
- h. The applicant certifies that it is complying with each of the following criteria:
  - (1) Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of the Gulf Coast hurricanes of 2005 in communities included in Presidential disaster declarations.
  - (2) The applicant will not attempt to recover any capital costs of public improvements assisted with CDBG disaster recovery grant funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless

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- a. disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or
- b. for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (A).
- i. The applicant certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.
- j. The applicant certifies that they have adopted and is enforcing:
  - (1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
  - (2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.
- k. The applicant certifies that it has the capacity to carry out disaster recovery activities in a timely manner.
- l. The applicant certifies that it will not use CDBG Disaster Recovery funds for any activity in an area delineated as a special flood hazard area in FEMA's most current flood advisory maps unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR part 55.
- m. The applicant certifies that it will comply with applicable laws.

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**ORDINANCE NO. 543**

**AN ORDINANCE AMENDING ORDINANCE NO. 526, ENTITLED, “AN ORDINANCE CREATING THE LONG BEACH YOUTH COMMISSION AND RELATED ISSUES THEREOF” TO INCREASE THE NUMBER OF MEMBERS OF SUCH COMMISSION TO TWENTY-FIVE (25), AND TO CHANGE THE NUMBER OF MEMBERS FROM EACH GRADE, AND FOR RELATED PURPOSES.**

WHEREAS, the governing authorities of the City of Long Beach, Mississippi, by adoption of Ordinance No. 526 has heretofore established the Long Beach Youth Commission; and

WHEREAS, after its first year, the Long Beach Youth Commission has reported its activities and accomplishments to the governing authorities of the City; and

WHEREAS, the Long Beach Youth Commission has recommended that certain changes be made to Ordinance No. 526 for the purposes of improving the effectiveness of the Long Beach Youth Commission and to allow participation as members of the Commission by students otherwise desirous of serving and well qualified to serve but prohibited from serving solely by the numeric limitation pertaining to the number of members and the mandate that there be no more than five (5) members from each of grades 9 through 12; and

WHEREAS, the Mayor and Board of Aldermen have considered the report and requests of the Long Beach Youth Commission and find such report to have been well presented and do find from such report that the Long Beach Youth Commission is fulfilling its mission and has proved itself to be of great service and benefit to the community, and further, do find that such recommendations of the Long Beach Youth Commission should be accepted and adopted. Therefore,

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AS FOLLOWS:

**Section 1.** That Section 2 of Ordinance No. 526, entitled, “An Ordinance Creating the Long Beach Youth Commission and Related Issues Thereof”, should be and the same is hereby amended to read as follows:

**“Section 2: Youth Commission Membership**

(a) The Commission shall consist of twenty-five (25) members selected, through an application and interview process, and appointed by the Mayor and Board of Aldermen. There shall be no more than:

Not more than five (5) members from grade 9

Not more than seven (7) members from grade 10

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Not more than ten (10) members from grade 11, and

Not more than ten (10) members from grade 12

All members of this Commission must live in the Long Beach School District.

- a. No member of this Commission shall be compensated for his or her service.
  - b. All members must take an oath of office, swearing [or affirming] to uphold the duties of their office, and the Constitution of Mississippi and of the United States of America.
  - c. The Commission shall notify the Board of Aldermen of any vacancies on the Commission, after which the Board shall have thirty (30) days to fill the vacancy.
  - d. The Board of Aldermen can, through amendment to this ordinance, alter the size of the Commission by expanding or reducing its membership.
- (b) The term of office for each member shall be one year. If a vacancy occurs prior to the expiration of a term, an appointment shall be made by the Board of Aldermen for the remainder of the un-expired terms. Commissioner's terms shall commence on the first Tuesday after the first Monday in August, unless otherwise noted, and officers shall assume responsibilities once elected by the Commission.
- (c) The Commission shall appoint from its members a Chairman, a Vice Chairman, and a Secretary to serve one (1) year terms.
- (d) A simple majority of the members of the Commission shall constitute a quorum for the transaction of business; provided however, no such action shall be taken which is binding upon the Commission unless concurred in by not less than an absolute majority of all members comprising the Commission.

**Section 2.** Ordinance No. 526 is hereby amended as set forth above, only, to otherwise remain in full force and effect.

**Section 3: EFFECTIVE DATE**

This ordinance shall take effect and be in force thirty (30) days after its adoption, publication and enrollment thereof as provided by law.

The above and foregoing Ordinance No. 543 was introduced in writing by Alderman Boggs who moved its adoption. Alderman Holder seconded the motion to adopt the Ordinance, and after a discussion, no member of the Board of Aldermen having requested the Ordinance to be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

Alderman Richard Notter	voted Aye
Alderman Richard Burton	voted Aye
Alderman Charles A. Boggs	voted Aye
Alderman Richard Bennett	voted Aye
Alderman Allen D. Holder	voted Aye
Alderman Mark E. Lishen	voted Aye

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Alderman Joseph McNary                      voted Aye

The question having received the affirmative vote of a majority of the Aldermen present and voting, the Mayor declared the motion carried and the said Ordinance adopted and approved this, the 21<sup>st</sup> day of August, 2007.

APPROVED:

\_\_\_\_\_  
WILLIAM SKELLIE, JR., MAYOR

ATTEST:

\_\_\_\_\_  
REBECCA E. SCHRUFF, CITY CLERK

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There came on for consideration at a duly called meeting of the Mayor and Board of Aldermen on the 21<sup>st</sup> day of August, 2007, the following amendatory ordinance, to wit:

**ORDINANCE NUMBER 544**

**AN ORDINANCE OF THE CITY OF LONG BEACH, MISSISSIPPI, WHICH DECLARES A TEMPORARY NINETY (90) DAY MORATORIUM UNDER THE CURRENT SIGN ORDINANCE NO. 533, AS MAY HAVE BEEN AMENDED FROM TIME TO TIME, FOR ACCEPTING AND PROCESSING OF NEW APPLICATIONS FOR OFF-PREMISES OUTDOOR ADVERTISING SIGNS WITHIN THE CITY OF LONG BEACH, MISSISSIPPI, AND FOR RELATED PURPOSES.**

WHEREAS, the greatest natural disaster in the United States' history ("Hurricane Katrina") occurred on August 29, 2005, devastating the City of Long Beach, Mississippi; its Citizens, properties, and neighboring communities; and

WHEREAS, Hurricane Katrina destroyed or severely damaged numerous businesses, homes, roadways, signage and landmark structures on the Mississippi Gulf Coast; and

WHEREAS, the Mayor and Board of Aldermen for the City of Long Beach, Mississippi, are charged with the duty and responsibility to insure orderly and

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compatible growth and redevelopment of the City for the future public benefit and welfare, and in exercise of that duty and responsibility, the Mayor and Board of Aldermen finds that it is necessary to re-evaluate and analyze the City of Long Beach's existing Sign Ordinance No. 533, as may have been from time to time by subsequent ordinances (hereinafter "Sign Ordinance"), and

WHEREAS, the Mayor and Council find that the attraction and servicing of the tourism industry is one of Long Beach's leading economic activities, and the Mayor and Board of Aldermen find that it is necessary to improve the aesthetics and appearance of the City in conjunction with its efforts to establish new first-class business and commercial districts and to re-vitalize remaining buildings and land uses; and

WHEREAS, the purpose of the Sign Ordinance is to control and regulate the growth and development of sign usage that is detrimental to the health, safety and welfare of the City of Long Beach, as well as to allow effective and aesthetically compatible advertising opportunities; and

WHEREAS, in keeping with the purpose and intent of said Sign Ordinance the Mayor and Board of Aldermen have determined that the health, safety, and welfare of the Citizens of the City of Long Beach would best be served if a moratorium is enacted to temporarily abate the proliferation of new off-premises outdoor advertising signs prior to completion of the re-evaluation and analysis of the Sign Ordinance in relation to its stated purpose and in relation to the Comprehensive Zoning Ordinance and Building Codes of the City of Long Beach as such may be applied to facilitate post-Katrina revitalization and redevelopment efforts; and

WHEREAS, the Mayor and Board of Aldermen find that failure to enact a temporary moratorium will adversely impact the purpose of said Sign Ordinance, thus potentially allowing construction of an abundance of new off-premises signs that are or could be incompatible with future or existing land use and development objectives; and

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WHEREAS, a temporary moratorium of ninety (90) days will not affect applications for permits filed prior to the enactment of this Ordinance, as such applications will be processed in the ordinary course of business; and

WHEREAS, all applications for permits filed prior to the adoption of this moratorium are subject to the terms, provisions, and conditions of the Sign Ordinance as it exists prior to this moratorium.

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF LONG BEACH  
MAYOR AND BOARD OF ALDERMEN, AS FOLLOWS:

SECTION 1: There shall be in effect a temporary ninety (90) day moratorium of the current Sign Ordinance for the acceptance and processing of new applications from any person, corporation or entity, for all off-premises outdoor advertising signs<sup>1</sup> within the City of Long Beach, Mississippi.

SECTION 2: This moratorium provided by this Ordinance shall not affect or impact applications for any permits which are duly and properly filed as of the date of the adoption of this Ordinance, and such applications shall be subject to the terms, provisions, and conditions of the Sign Ordinance as it exists to this Ordinance.

SECTION 3: This Ordinance shall not affect the right of any person, corporation or entity to submit an application for permit of on-premises signs in accordance with the Sign Ordinance.

SECTION 4: Except as affected by the moratorium set forth herein, this Ordinance shall not be constructed to modify, amend, or supercede the Sign Ordinance with respect to off-premises outdoor advertising signs, and no provision of this Ordinance shall constitute a wavier or repeal of any provisions of the Sign Ordinance.

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<sup>1</sup> For purposes of this Ordinance, the term "off-premises outdoor advertising signs" shall mean signs that advertise a service or product not located on the premises where the service or product is vended.

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SECTION 5: For orderly and compatible reconstruction and recovery of the City of Long Beach and for temporary preservation of the public peace and safety, this Ordinance shall be in full force and effect from and after its final adoption by the City Council and, shall be published in the usual manner, and shall remain in effect thereafter for a period of ninety (90) days and after the date of passage hereof, unless otherwise amended by the City Council.

The above and foregoing Ordinance having been introduced in writing and having been read and considered by the members of the Board of Aldermen section by section and then as a whole; Alderman Richard Burton made motion seconded by Alderman Richard Notter to adopt said Ordinance; and the question being put to a roll call vote by the Mayor, the result as to each Section separately and as to the whole of said Ordinance was as follows:

Ward 1 Alderman Charles Boggs	voted Aye
Ward 2 Alderman Richard Notter	voted Aye
Ward 3 Alderman Richard Burton	voted Aye
Ward 4 Alderman Joseph McNary	voted Aye
Ward 5 Alderman Mark Lishen	voted Absent, Not Voting
Ward 6 Joseph McNary	voted Aye
At-Large Alderman Allen D. Holder, Jr.	voted Aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried and said Ordinance Number 544 adopted and approved this the 21<sup>st</sup> day of August, 2007.

APPROVED:

\_\_\_\_\_  
WILLIAM SKELLIE, JR., MAYOR

ATTEST:

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REBECCA E. SCHRUFF, CITY CLERK

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There came on for consideration a matter of litigation and discussion was held to preliminarily determine whether or not to declare an executive session. Alderman Notter made motion seconded by Alderman Burton 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 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	Absent, Not Voting
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, whereupon, the Mayor and Board of Aldermen met in executive session.

\* \* \* \* \*

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

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

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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