

Minutes of April 16, 2013  
Mayor and Board of Aldermen

Be it remembered that a regular meeting of the Mayor and Board of Aldermen, Long Beach, Mississippi, was begun and held at 5:00 o'clock p.m., Long Beach City Hall, 201 Jeff Davis Avenue, in said City, it being the third Tuesday in April, 2013, and the same being the time, date and place fixed by Laws of the State 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 Leonard G. Carrubba, Sr., Gary J. Ponthieux, Bernie Parker, Kaye H. Couvillon, Ronnie Hammons, Jr., Mark E. Lishen, Carolyn J. Anderson, City Clerk Rebecca E. Schruuff, and City Attorney James C. Simpson, Jr.

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

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The meeting was called to order and Alderman Carrubba made motion seconded by Alderman Lishen and unanimously carried authorizing advertisement for bids, "One (1) New Stand-by Generator/Manual Transfer Switch – White Harbor Well", said bids to be opened Thursday, May 2, 2013, 10:00 a.m. in the Office of the City Clerk.

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The Mayor and Board of Aldermen proclaimed Thursday, April 21, 2013, as "Power Talk 21 Day".

\* \* \*

The Mayor and Board of Aldermen congratulated Municipal Court Judge Brad Rath and the Long Beach Mock Trial Team, placing 2<sup>nd</sup> place in the state competition.

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There were no amendments to the Municipal Docket.

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The Mayor opened the floor for public comments regarding agenda items, as follows:

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**PUBLIC COMMENTS PERTAINING TO MATTERS ON THE AGENDA ONLY**

**NOTE:** All comments shall be directed to the Chairman (Mayor).  
 Comments of a personal nature regarding individual members of the Governing Authority (Mayor and Board of Aldermen), City Staff and/or Personnel, other Citizens, disruptive comments or improper actions will not be permitted.  
 Public Comments will be limited to a total of ten (10) minutes and limited to a maximum of two (2) minutes per person.  
 Except as otherwise directed by the Chairman (Mayor), Public Comments will not be permitted before or after the allotted time. Disruption of the regular business meeting will be cause for removal from the public meeting.

PLEASE PRINT:			AGENDA ITEM
	NAME / ADDRESS / TELEPHONE	NO.	AGENDA ITEM SUBJECT MATTER
1	Dixie Huch 100 S. W. Skt Ave 863-5719	XII	New Business Drainage
2			
3			
4			
5			
6			
7			
8			
9			
10			

City of Long Beach, Mississippi  
 Mayor and Board of Aldermen Meeting  
 Date: \_\_\_\_\_

Excel Worksheet: public comments - agenda PUBLIC COMMENTS-AGENDA

It was noted for the record that Derrel Wilson, Project Manager, Utility Partners, LLC, will meet with Ms. Huch to discuss drainage issues.

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Alderman Hammons made motion seconded by Alderman Lishen and unanimously carried to approve the regular meeting minutes of the Mayor and Board of Aldermen dated April 2, 2013, as submitted.

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The Dynsmore Subdivision resolution was unavailable and the matter was taken under advisement for further consideration at the recess meeting scheduled for Wednesday, May 8, 2013, at 5:00 p.m.

It was the consensus of the Mayor and Board of Aldermen that the developers of Dynsmore Subdivision be present at the recess meeting to answer questions and provide additional information.

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Alderman Anderson made motion seconded by Alderman Hammons and unanimously carried to approve the regular meeting minutes of the Long Beach Planning Commission dated April 11, 2013, as submitted.

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Alderman Hammons made motion seconded by Alderman Lishen and unanimously carried to approve payment of invoices as listed in Docket of Claims number 041613, inclusive of Payment #9, ProCon, Inc., FMA Drainage Project, Shady Drive to Cypress Drive.

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There was no further report from the Mayor's Office.

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There came on for consideration the Town Green Project and official action was taken, as follows:

- Alderman Lishen made motion seconded by Alderman Hammons and unanimously carried to approve the Certificate of Substantial Completion, as follows:

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Certificate of Substantial Completion

<b>PROJECT:</b> <i>(Name and address)</i> 09063 Long Beach Town Green Jeff Davis & Third Streets Long Beach, MS 39560	<b>PROJECT NUMBER:</b> 09063/ <b>CONTRACT FOR:</b> General Construction <b>CONTRACT DATE:</b> 4/27/2010	<b>OWNER:</b> <input checked="" type="checkbox"/> <b>ARCHITECT:</b> <input checked="" type="checkbox"/> <b>CONTRACTOR:</b> <input checked="" type="checkbox"/> <b>FIELD:</b> <input type="checkbox"/> <b>OTHER:</b> <input type="checkbox"/>
<b>TO OWNER:</b> <i>(Name and address)</i> City of Long Beach 645 Klondyke Road Long Beach, Mississippi 39560	<b>TO CONTRACTOR:</b> <i>(Name and address)</i> A. F. C., Inc. 2510 Highway 53 Perkinston, Mississippi 39573	

PROJECT OR PORTION OF THE PROJECT DESIGNATED FOR PARTIAL OCCUPANCY OR USE SHALL INCLUDE:

Entire project.

The Work performed under this Contract has been reviewed and found, to the Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion designated above is the date of issuance established by this Certificate, which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

<b>Warranty</b> Date of Substantial Completion per Article 9.8.4 of Supplementary Conditions	<b>Date of Commencement</b> January 3, 2013
JBHM Architects, P.A. ARCHITECT	January 3, 2013 DATE OF ISSUANCE

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment.

Cost estimate of Work that is incomplete or defective: \$24,589.55

The Contractor will complete or correct the Work on the list of items attached hereto within Thirty (30) days from the above date of Substantial Completion.

A. F. C., Inc. CONTRACTOR	BY 	DATE 3-29-13
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The Owner accepts the Work or designated portion as substantially complete and will assume full possession at 12:00am (time) on January 3, 2013 (date).

City of Long Beach OWNER	BY 	DATE 4/16/13
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\* \* \*

➤ Alderman Lishen made motion seconded by Alderman Hammons and unanimously carried to approve Change Order #007R, as follows:

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Mayor and Board of Aldermen

 **AIA** Document G701™ – 2001

**Change Order**

<b>PROJECT (Name and address):</b> 09063 Long Beach Town Green Jeff Davis & Third Streets Long Beach, MS 39560	<b>CHANGE ORDER NUMBER:</b> 007R <b>DATE:</b> March 15, 2013	<b>OWNER:</b> <input checked="" type="checkbox"/> <b>ARCHITECT:</b> <input checked="" type="checkbox"/> <b>CONTRACTOR:</b> <input checked="" type="checkbox"/> <b>FIELD:</b> <input type="checkbox"/> <b>OTHER:</b> <input type="checkbox"/>
<b>TO CONTRACTOR (Name and address):</b> A. F. C., Inc. 2510 Highway 53 Perkinston, Mississippi 39573	<b>ARCHITECT'S PROJECT NUMBER:</b> 09063 <b>CONTRACT DATE:</b> 4/27/2010 <b>CONTRACT FOR:</b> General Construction	

**THE CONTRACT IS CHANGED AS FOLLOWS:**  
*(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)*

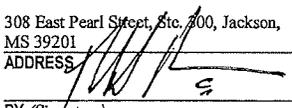
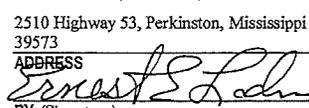
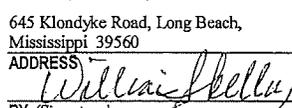
- Liquidated Damages: 704 Days @ \$100.00/day =	(\$70,400.00)
- Credit to contractor for utility bills paid =	\$ 5,153.46
- 236 Rain Days accepted @ \$100.00/day =	\$23,600.00
- Additional Fee (JBHM Invoice Number 27) \$24,405.00	(\$24,405.00)
<b>Total Change Order =</b>	<b>(\$66,051.54)</b>

The original Contract Sum was	\$ 1,169,000.00
The net change by previously authorized Change Orders	\$ 60,477.31
The Contract Sum prior to this Change Order was	\$ 1,229,477.31
The Contract Sum will be decreased by this Change Order in the amount of	\$ 66,051.54
The new Contract Sum including this Change Order will be	\$ 1,163,425.77

The Contract Time will be increased by Two Hundred Thirty Six (236) days.  
The date of Substantial Completion as of the date of this Change Order therefore is October 12, 2011

**NOTE:** This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

**NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.**

<u>JBHM Architects, P.A.</u> ARCHITECT (Firm name)	<u>A. F. C., Inc.</u> CONTRACTOR (Firm name)	<u>City of Long Beach</u> OWNER (Firm name)
<u>308 East Pearl Street, Ste. 700, Jackson, MS 39201</u> ADDRESS	<u>2510 Highway 53, Perkinston, Mississippi 39573</u> ADDRESS	<u>645 Klondyke Road, Long Beach, Mississippi 39560</u> ADDRESS
 BY (Signature)	 BY (Signature)	 BY (Signature)
<u>Richard McNeel, AIA</u> (Typed name)	<u>Vonnie L. Ladner</u> (Typed name)	<u>William Skellie</u> (Typed name)
<u>March 15, 2013</u> DATE	<u>3/29/13</u> DATE	<u>4/16/13</u> DATE

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\* \* \*

Alderman Hammons made motion seconded by Alderman Lishen and unanimously carried to approve Amendment #002, JBHM Architects, P.A., as follows:

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Mayor and Board of Aldermen

 **AIA** Document G802™ – 2007

**Amendment to the Professional Services Agreement**

Amendment Number: 002

TO: William Skellie  
(Owner or Owner's Representative)

In accordance with the Agreement dated: July 07, 2009

**BETWEEN** the Owner:  
(Name and address)  
City of Long Beach  
645 Klondyke Road  
Long Beach, Mississippi 39560

and the Architect:  
(Name and address)  
JBHM Architects, P.A.  
2548 Beach Blvd., Suite 100  
Biloxi, Mississippi 39531

for the Project:  
(Name and address)  
09063 Long Beach Town Green  
Jeff Davis & Third Streets  
Long Beach, MS 39560

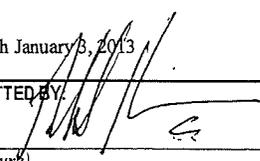
Authorization is requested  
 to proceed with Additional Services.  
 to incur additional Reimbursable Expenses.

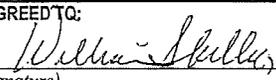
As follows:  
Additional fees related to services provided beyond the specified Substantial Completion/Final Completion dates.  
(See attached JBHM Invoice Number 27)

The following adjustments shall be made to compensation and time.  
(Insert provisions in accordance with the Agreement, or as otherwise agreed by the parties.)

Compensation:  
\$24,405.00

Time:  
Through January 3, 2013

SUBMITTED BY:   
\_\_\_\_\_  
(Signature)  
Richard McNeel, AIA  
\_\_\_\_\_  
(Printed name and title)  
March 15, 2013  
\_\_\_\_\_  
(Date)

AGREED TO:   
\_\_\_\_\_  
(Signature)  
William Skellie, Mayor  
\_\_\_\_\_  
(Printed name and title)  
4/16/13  
\_\_\_\_\_  
(Date)

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Alderman Carrubba made motion seconded by Alderman Couvillon and unanimously carried to approve personnel matters, as follows:

**FIRE DEPARTMENT – (5) Step Increases**

- Assistant Chief Mike Brown, FSA-15-XIV, effective June 16, 2013;
- Firefighter 2<sup>nd</sup> Class Kyle Castelin, FS-7, effective May 1, 2013;
- Firefighter 1<sup>st</sup> Class Levi Condiff, FS-9-IV, effective May 16, 2013;
- Lieutenant Tim Darden, FS-12-VI, effective June 1, 2013;
- Lieutenant Rocky Ladnier, FS-12-VI, effective June 1, 2013.

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POLICE DEPARTMENT – (6) Step Increases

- Dispatcher Nathan Clay, PS-3-II, effective May 1, 2013;
- Sergeant Patrick Craig, PS-11-V, effective May 1, 2013;
- Lieutenant Erick Dietrick, PS-12-X, effective May 1, 2013;
- Dispatcher Jolee Knight, PS-3-II, effective May 1, 2013;
- Admin Detective Damien McRight, PSA-10-I, effective May 1, 2013;
- Dispatcher Rachel Taylor, PS-3-II, effective May 16, 2013.

HARBOR – (1) Resignation

- Harbor Guard Wendy Reed effective April 15, 2013;

RECREATION – (1) Termination

- David Braud, Jr., effective immediately.

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Alderman Carrubba made motion seconded by Alderman Couvillon and unanimously carried acknowledging the March, 2013, Revenue/Expense Reports.

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There came on for consideration the \$600,000 Drainage Bond Issue and official action was taken as follows:

**Minutes of April 16, 2013  
Mayor and Board of Aldermen**

RESOLUTION OF THE MAYOR AND THE BOARD OF ALDERMEN OF  
THE CITY OF LONG BEACH, MISSISSIPPI RETAINING LEGAL COUNSEL  
TO ASSIST WITH PROPOSED CAPITAL IMPROVEMENT FINANCING.

WHEREAS, the Board of Aldermen (the "Governing Authority") of the City of Long Beach, Mississippi (the "City"), acting for and on behalf of the City does hereby find, determine adjudicate, and declare as follows:

1. It is in the City's best interests to issue general obligation bonds to finance capital improvement projects within the City (the "Bonds").
2. It is necessary and in the public interest to retain Issuer's Counsel and Bond Counsel to assist the City in issuing the Bonds.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Aldermen of the City of Long Beach, Mississippi:

SECTION 1. The Governing Authority hereby retains James C. Simpson, Jr., with Wise Carter Child & Caraway, P.A., Gulfport, Mississippi as Issuer's Counsel to assist the City with issuing the Bonds. Issuer's Counsel will be responsible for assisting the City and Bond Counsel with the following matters regarding the Bonds: (1) reviewing and assisting in the preparation of the resolutions and documents approved by the Governing Authority to issue the Bonds, (2) validating and closing on the Bonds, and (3) providing other services necessary or desirable in connection with the Bonds. In exchange for his services, Issuer's Counsel shall be paid a usual and customary fee to be agreed upon by the parties at a later date. Issuer's Counsel shall also be reimbursed for all reasonable, itemized expenses incurred on the City's behalf in the course of assisting with the Bonds.

SECTION 2. The Governing Authority hereby retains the firm of Watkins & Young, PLLC, Jackson, Mississippi ("Watkins & Young") as Bond Counsel in connection with the Bonds. As Bond Counsel, Watkins & Young will be responsible for assisting the City with the following matters regarding the Bonds: (1) preparing the resolutions and documents approved by the Governing Authority to issue the Bonds, (2) preparing any offering documents necessary to sell the debt and assisting with such sale, (3) assisting in obtaining any credit enhancement selected by the Governing Authority, (4) coordinating the validation and closing of the Bonds, and (5) providing other services typically provided by Bond Counsel in similar tax-exempt finance transactions. In exchange for its services in connection with the issuance of the Bonds, Watkins & Young, shall be paid a usual and customary fee to be agreed upon by the parties at a later date. Watkins & Young, shall also be reimbursed for all reasonable, itemized expenses incurred on the City's behalf in the course of assisting with the Bonds.

Following the reading of the foregoing resolution, and upon the formal motion of Alderman Ponthieux, seconded by Alderman Anderson, and the question being put to a roll call vote by the Mayor, the results were as follows:

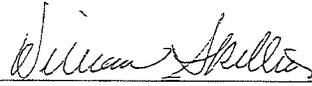
Alderman Bernie Parker	voted Aye
Alderman Gary J. Ponthieux	voted Aye
Alderman Kaye H. Couvillon	voted Aye
Alderman Carolyn J. Anderson	voted Aye

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Alderman Leonard G. Carrubba, Sr.	voted Aye
Alderman Mark E. Lishen	voted Aye
Alderman Ronnie Hammons, Jr.	voted Aye

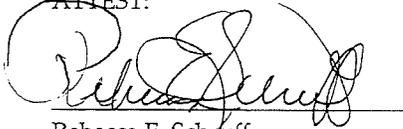
The motion having received the affirmative vote of all the Aldermen present and voting, the Mayor of the City of Long Beach, Mississippi, declared the motion carried and the resolution adopted on this the 16<sup>th</sup> day of April, 2013.

THE CITY OF LONG BEACH, MISSISSIPPI



Honorable William Skellie, Jr.,  
Mayor of the City of Long Beach

ATTEST:



Rebecca E. Schruiff,  
City Clerk of the City of Long Beach

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Mayor and Board of Aldermen

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**Minutes of April 16, 2013  
Mayor and Board of Aldermen**

A RESOLUTION DECLARING THE INTENTION OF THE MAYOR AND THE BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, TO ISSUE GENERAL OBLIGATION BONDS OF SAID CITY IN THE MAXIMUM PRINCIPAL AMOUNT OF SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$600,000.00) TO RAISE MONEY FOR THE PURPOSE OF PAYING THE COSTS OF MAKING CAPITAL IMPROVEMENTS IN THE CITY AND PAYING THE COST OF SUCH BORROWING; ADJUDICATING NO FUNDS ARE AVAILABLE TO THE CITY FOR SUCH PURPOSES; ORDERING SAID RESOLUTION TO BE PUBLISHED; AND SETTING THE DATE UPON WHICH THE MAYOR AND BOARD OF ALDERMEN ARE TO TAKE FINAL ACTION UPON THE QUESTION OF AUTHORIZING THE ISSUANCE OF SAID BONDS.

WHEREAS, the Board of Aldermen (the "Governing Authority") of the City of Long Beach, Mississippi (the "City"), acting for and on behalf of the City does hereby find, determine, adjudicate, and declare as follows:

1. That it is necessary and advisable and in the best public interest of the City and its inhabitants to issue, under the authority contained in Sections 21-33-301 through 21-33-329 (the "Act") of the Mississippi Code of 1972, as amended, (the "Code") general obligation bonds of the City in the maximum principal amount of Six Hundred Thousand and No/100 Dollars (\$600,000.00) to raise money for and toward the Project, as defined herein;

2. That no other funds are available with which to pay the costs of the Project, as defined herein;

3. That the net assessed value of all taxable property within the City, according to the last completed assessment for taxation, is \$109,118,625; that the City presently has outstanding bonded indebtedness subject to the fifteen percent (15%) debt limit prescribed by Section 21-33-303 of the Code, in the amount of \$1,395,335 and outstanding bonded and floating indebtedness subject to the twenty percent (20%) debt limit prescribed by Section 21-33-303 of the Code (which amount includes the sum set forth above subject to the fifteen percent (15%) debt limit), in the amount of \$1,395,335; that the issuance of the bonds hereinafter proposed to be issued, when added to the outstanding bonded indebtedness of the City will not result in: (a) bonded indebtedness of the City, exclusive of indebtedness not subject to the aforesaid debt limits, in excess of either fifteen percent (15%) of the assessed value of taxable property within the City according to the last completed assessment for taxation, or ten percent (10%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 2012, whichever is greater, or (b) bonded and floating indebtedness, exclusive of indebtedness not subject to the aforesaid debt limits, in excess of either twenty percent (20%) of the assessed value of all taxable property within such City according to the last completed assessment for taxation, or fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 2012, whichever is greater; and will not exceed any constitutional or statutory limitation upon indebtedness which may be incurred by the City; and

4. That any machinery, equipment and any other equitable expenditures proposed to be purchased with a part of the proceeds of the bonds shall have an expected useful life in excess of twenty (20) years; and

5. That the purposes for which the proposed bonds are to be issued as herein set forth in this resolution are purposes authorized by the Act, and that the Governing Authority is authorized and required to declare the necessity and its intention of borrowing money and issuing the bonds of the City as evidence of the same.

NOW, THEREFORE, be it resolved by the Mayor and the Board of Aldermen of the City of Long Beach, Mississippi:

SECTION 1. That the Governing Authority does hereby find, determine and adjudicate that the foregoing premises are true and correct.

SECTION 2. That the Governing Authority does hereby declare its intention to issue general obligation bonds of the City, under the provisions of the Act, in the maximum principal amount of Six Hundred Thousand and No/100 Dollars (\$600,000.00) (the "Bonds") to raise money for the purpose of paying the costs of erecting, repairing, improving and equipping

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municipal buildings; establishing sanitary, storm, drainage or sewerage systems, and repairing, improving and extending same; constructing, improving, extending and paving streets, sidewalks, driveways, and purchasing land for any of the foregoing purposes; purchasing machinery and equipment having an expected useful life in excess of twenty (20) years; and making other necessary and incidental improvements for the foregoing purposes in the City of Long Beach, Mississippi, and paying the cost of such borrowing, at a total project cost estimated to be approximately equal to the maximum principal amount of the Bonds authorized herein (the "Project").

SECTION 3. That unless a petition signed by the lesser of 10% or fifteen hundred (1,500) of the qualified electors of said City, requesting that an election be called on the question of issuing said Bonds, is filed prior to 5:00 p.m. on May 21, 2013, at the office of the City Clerk of the City or the meeting of the Governing Authority scheduled for 5:00 p.m. on May 21, 2013, at the City Hall Meeting Room, 201 Jeff Davis Avenue, in Long Beach, Mississippi, final approval of the issuance of said Bonds and authority for the issuance of said Bonds shall be given by the Governing Authority at the aforesaid meeting.

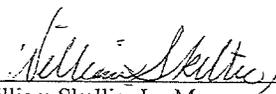
SECTION 4. That the City Clerk of the City be and is hereby authorized and directed to cause this resolution as adopted to be published in The Sun Herald a newspaper published in the county in which the City is situated and of general circulation in the City, and qualified under the provisions of Section 13-3-31 of the Mississippi Code of 1972, as amended. Said resolution shall be published once a week for three consecutive weeks, with the first publication thereof to be made not less than 21 days prior to May 21, 2013, on which date the Governing Authority will take final action on the question of issuance of said Bonds. In addition, the City Clerk shall post a copy of the resolution for at least twenty-one (21) days next preceding May 21, 2013, at three (3) public places in the City.

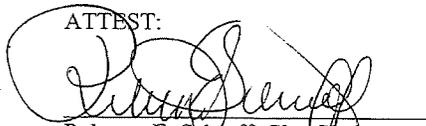
Alderman Anderson moved the adoption of the resolution. Alderman Hammons seconded the motion to adopt the resolution, and, the question being put to a roll call vote by the Mayor, the result was as follows:

Alderman Bernie Parker	Voted: Aye
Alderman Gary Ponthieux	Voted: Aye
Alderman Kaye Couvillon	Voted: Aye
Alderman Carolyn Anderson	Voted: Aye
Alderman Leonard Carrubba, Sr.	Voted: Aye
Alderman Mark Lishen	Voted: Aye
Alderman Ronnie Hammons, Jr.	Voted: Aye

The motion having received the affirmative vote of all the Aldermen present and voting, the Mayor of the City of Long Beach, Mississippi, declared the motion carried and the resolution adopted on this the 16th day of April, 2013.

THE CITY OF LONG BEACH, MISSISSIPPI

  
\_\_\_\_\_  
William Skellie, Jr., Mayor

ATTEST:  
  
\_\_\_\_\_  
Rebecca E. Schuff, City Clerk

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**Minutes of April 16, 2013  
Mayor and Board of Aldermen**

There came on for discussion, Derelict Properties, as follows:

- 0 Old Savannah Drive is in satisfactory condition at this time;
- Signs on the east side of Beatline Road, south of 28<sup>th</sup> Street, fall under the city's jurisdiction and the Building Official/Zoning and Code Enforcement Office was directed to remove those signs placed illegally.

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There came on for consideration the Hurricane Debris Protection Ordinance and official was taken as follows:

**Minutes of April 16, 2013**  
**Mayor and Board of Aldermen**

ORDINANCE NO. 600

**AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI ESTABLISHING SITE DEBRIS AND HURRICANE PROTECTIONS; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

Having made due investigation and consideration, and in order to promote the general health, welfare, safety and convenience of the citizens of the city of Long Beach, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AS FOLLOWS:

**SECTION 1.** An emergency may be declared because of weather conditions when the national weather service or a State, County or local emergency management agency informs the City of Long Beach or the public that emergency conditions resulting from meteorological conditions are present or imminent. Meteorological conditions covered by this section shall include, but are not limited to hurricane, floods, tornados, or other severe weather conditions and the results therefrom.

- a. Once an official hurricane watch is issued by the National Weather Service for an area which includes the City of Long Beach, it shall be unlawful for any person to place any yard waste including, but not limited to, vegetative clippings, trees, leaves, branches or any other vegetative debris (*Landscape Debris*) on any portion of the public right-of-way or upon any land within ten feet of the public right-of-way, unless instructed to do so in writing by the City of Long Beach. This shall not prohibit the temporary placement of Landscape Debris adjacent to the parcel which produced such Landscape Debris for pick up by a licensed private hauler, so long as such pick up and removal is fully accomplished prior to the issuance by the National Weather Service of an official hurricane warning and in any event is completed by the private hauler prior to the occurrence of the anticipated storm event and at the private property owner's sole cost and expense.

**Minutes of April 16, 2013**  
**Mayor and Board of Aldermen**

- b. In the event of any meteorological conditions, including but not limited to tropical depressions, tropical storms, hurricanes, etc., regularly scheduled garbage, recycling and yard waste collections cannot be guaranteed by the waste service removal company, nor the City of Long Beach when sustained storm winds reach 35 mph. Once sustained winds reach 35 mph, it shall be the sole responsibility of each home or business owner, manager or president of a condominium or co-operative association regardless of location to secure, tie down or take inside their refuse containers (including dumpsters) and remove yard waste from curbside to prevent any property damage, injury, or loss of life. Move empty garbage containers and recycling bins immediately after the collection to a secure area so they don't roll into traffic or become projectiles.

**SECTION 2.** Construction job sites shall be kept clean, such that accumulation of construction debris must not remain on the property for a period of time exceeding 14 days. All debris shall be contained in such a manner as to prevent it from being spread on the property or adjacent property by any means. The permit holder of any active or inactive construction project shall clean up and remove all construction debris or any other miscellaneous discarded articles prior to receiving final inspection approval.

**SECTION 3.** It shall be unlawful for any person to allow the construction-related materials (including, but not limited to roof tiles, lumber, scaffolding and debris) to remain loose or otherwise unsecured at a construction site from 24 hours after a hurricane watch has been issued until the hurricane watch or warning has been lifted. All such materials shall be either removed from the construction site or secured in such a manner as to minimize the danger of such materials causing damage to persons or property from high winds.

**SECTION 4.** Any person who violates this Ordinance shall be guilty of a second-degree misdemeanor and subject to a fine of up to \$500.00 or imprisonment for a term not to exceed 60 days. In addition to the above, a licensed contractor who violates this ordinance shall be subject to license suspension within the City of Long Beach;

**SECTION 5. EFFECTIVE DATE**

**Minutes of April 16, 2013  
Mayor and Board of Aldermen**

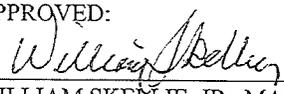
This ordinance shall take effect and be in force thirty (30) days after its adoption, publication and enrollment thereof as provided by law.

The above and foregoing Ordinance No. 600 was introduced in writing by Alderman Lishen who moved its adoption. Alderman Anderson seconded the motion to adopt the Ordinance, and after 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:

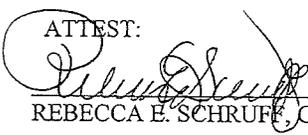
Alderman Bernie Parker	voted Aye
Alderman Gary J. Ponthieux	voted Aye
Alderman Kaye H. Couvillon	voted Aye
Alderman Carolyn Anderson	voted Aye
Alderman Leonard G. Carrubba, Sr.	voted Aye
Alderman Mark E. Lishen	voted Aye
Alderman Ronnie Hammons, Jr.	voted Aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried and the said Ordinance Number 600 adopted and approved this, the 16th day of April, 2012.

APPROVED:

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

ATTEST:

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

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\*\*\*\*\*

MDEQ MS4 Requirements were taken under advisement for further consideration and review at the recess meeting scheduled for Wednesday, May 8, 2013, at 5:00 p.m.

\*\*\*\*\*

There came on for consideration drainage problems, South Wright Avenue and the Mayor recognized several residents to answer questions and provide additional information.

After considerable discussion, it was determined that Derrel Wilson, Project Manager, Utility Partners, LLC, City Engineer David Ball, and Alderman Couvillon would meet with Ms. Dixie Huch, tomorrow, April 17<sup>th</sup>, in the afternoon, to discuss the drainage problems and possible solutions.

\*\*\*\*\*

Alderman Anderson made motion seconded by Alderman Lishen and unanimously carried authorizing Alderman Anderson to seek sponsorship from local businesses for light pole brackets and banners on Jeff Davis Avenue; and for the city to sponsor at least two light poles. It was noted for the record that brackets and banners cost a total of \$200.00 and that public works and Mississippi Power Company will be consulted in the purchase and attachment of brackets to the light poles.

\*\*\*\*\*

Due to other commitments, Alderman Lishen and Alderman Couvillon left and were absent the public meeting.

\*\*\*\*\*

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

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A. GARNER RUSSELL & ASSOCIATES, INC. / CONSULTING ENGINEERS  
520 33<sup>RD</sup> STREET  
GULFPORT, MS 39507.

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

March 14, 2013

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

**RE: Todd Terrace Water Main Improvements**

Ladies and Gentlemen:

Similar to Linda Lane which is currently under construction, the water main along Todd Terrace is undersized and has no fire hydrants available. Due to the very low prices we received for the Linda Lane work, the City has funds available to construct a new water main along Todd Terrace. To that end and based on discussions with the Mayor and Derrel Wilson, we have attached a proposed contract for the engineering services related to that work. We request your approval of this contract so that we may begin this work.

Sincerely,

David Ball, P.E.

DB:1991  
Enclosure

Minutes of April 16, 2013  
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**SHORT FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT, effective as of \_\_\_\_\_ ("Effective Date") between  
\_\_\_\_\_ ("Owner") and \_\_\_\_\_ ("Engineer").

City of Long Beach ("Owner") and A. Garner Russell & Assoc. ("Engineer").  
Engineer agrees to provide the services described below to Owner for the construction of water main improvements along the north side of Todd Terrace between Seal Avenue and Klondyke Road, all more particularly described as the Todd Terrace Water Main Improvements - 2013. ("Project")

Description of Engineer's Services: Provide professional services for the Project. This will include obtaining the needed topographic information through field surveys, design and the creation of suitable construction documents (essentially, construction drawings), permitting the extension of the public water system, and creating an appropriate stormwater management plan. Also, provide construction inspection services on an as-needed basis. It is expected that the City will perform the construction work in-house; therefore, Engineer will coordinate with Owner's Public Works department to provide construction documents adequate to perform the work.

Owner and Engineer further agree as follows:

**1.01 Basic Agreement**

A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Engineer for such Services as set forth in Paragraph 9.01.

**2.01 Payment Procedures**

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 45 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 45 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law) from said forty-fifth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this

Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

**3.01 Additional Services**

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

**4.01 Termination**

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EJCDC E-520 Short Form of Agreement Between Owner and Engineer for Professional Services  
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## Minutes of April 16, 2013 Mayor and Board of Aldermen

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon the receipt of notice by Engineer.

B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and

equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

### 5.01 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

### 6.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

### 7.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident

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EJCDC E-520 Short Form of Agreement Between Owner and Engineer for Professional Services  
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Minutes of April 16, 2013  
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9.01 Payment

Using the procedures set forth in paragraph 2.01, Owner shall pay Engineer as follows:

- A. BASIC SERVICES
  - 1. Basic Services will be compensated in amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times the Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any. Overtime pay (i.e., hours spent in excess of 40 hours per calendar week), if any, for non-exempt employees shall be paid at an amount equal to the cumulative overtime hours charged times 1.5 multiplied by the standard hourly rates for each applicable billing class for all services performed during overtime hours.
  - 2. The total compensation for the Basic Services detailed herein is estimated to be \$11,000.
- B. CONSTRUCTION INSPECTION SERVICES
  - 1. Construction Inspection Services will be compensated in amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times the Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any. Overtime pay (i.e., hours spent in excess of 40 hours per calendar week), if any, for non-exempt employees shall be paid at an amount equal to the cumulative overtime hours charged times 1.5 multiplied by the standard hourly rates for each applicable billing class for all services performed during overtime hours.
  - 2. The total compensation for the Construction Inspection Services detailed herein is estimated to be \$1,000.
- C. Engineer's Standard Hourly Rates are attached as Appendix 1. The Standard Hourly Rates will be adjusted annually (as of June 2013) to reflect equitable changes in the compensation payable to the ENGINEER.
- D. Engineer shall prepare and submit invoices to the Owner in accordance with Engineer's standard accounting and invoicing practices.
- E. Engineer proposes to provide construction documents to City within 60 days from the effective date of Contract. Completion of the actual construction work will depend upon the schedule of the City's construction crews.
- F. The Engineer's compensation is conditioned on the time to complete the project not exceeding 12 months. Should the time to complete construction be extended beyond this period, total compensation to Engineer shall be appropriately adjusted.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: City of Long Beach

ENGINEER: A. Garner Russell & Associates, Inc.

By: \_\_\_\_\_  
William Skellie, Jr.  
Mayor

By: M. Scott Burge  
M. Scott Burge  
President

Date Signed: \_\_\_\_\_

Date Signed: 4-12-13  
License No. and State: 9550 / MS

Address for giving notices:

Address for giving notices:

P. O. Box 929

520 33<sup>rd</sup> St.

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EJCDC E-520 Short Form of Agreement Between Owner and Engineer for Professional Services  
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Alderman Parker made motion seconded by Alderman Anderson and unanimously carried to approve the agreement set forth above, contingent upon the Mayor negotiating a reduction in engineering fees for the project.

\*\*\*\*\*

There came on for consideration the lease purchase of a fire truck and official action was taken, as follows:

## Minutes of April 16, 2013 Mayor and Board of Aldermen

### AUTHORIZING RESOLUTION

BOARD MEMBER ANDERSON moved the adoption of the following Resolution and Order:

A RESOLUTION OF THE BOARD OF ALDERMAN, THE GOVERNING BODY ("THE BOARD") OF THE CITY OF LONG BEACH, MISSISSIPPI (THE "LESSEE"), FINDING IT NECESSARY TO ACQUIRE EQUIPMENT FOR GOVERNMENTAL OR PROPRIETARY PURPOSES AUTHORIZED BY LAW: FINDING THAT IT WOULD BE IN THE PUBLIC INTEREST TO ACQUIRE SUCH EQUIPMENT UNDER THE TERMS OF A LEASE PURCHASE AGREEMENT: FINDING THAT THE HANCOCK BANK, GULFPORT, MISSISSIPPI, (THE "LESSOR") HAS OFFERED TO ACQUIRE SUCH EQUIPMENT, OR TO ACQUIRE FROM AND REIMBURSE THE LESSEE FOR THE COST OF SUCH EQUIPMENT IN THE EVENT THE EQUIPMENT HAS ALREADY BEEN PURCHASED BY THE LESSEE, AND TO LEASE SUCH EQUIPMENT TO LESSEE: FINDING THAT SUCH PROPOSAL IS IN THE INTEREST OF THE LESSEE AND AUTHORIZING AND DIRECTING THE AUTHORIZED OFFICERS (AS HEREINAFTER DEFINED) TO EXECUTE A LEASE PURCHASE AGREEMENT AND SUPPORTING SCHEDULES AND ATTACHMENTS INCLUDING, BUT NOT LIMITED TO, ASSIGNMENTS OF TITLE TO THE EQUIPMENT TO HANCOCK BANK TO THE END THAT THE EQUIPMENT SHALL BE ACQUIRED BY SUCH BANK AND LEASED TO THE LESSEE ON THE TERMS AND CONDITIONS EXPRESSED IN SUCH LEASE.

WHEREAS, the Board has determined that it is necessary to acquire certain items of Equipment (the "Equipment") for use by the Lessee for purposes authorized by law and

WHEREAS, the Board had by these presents determined that it would be in the public interest to acquire such Equipment through a Lease Purchase Agreement as provided under Section 31-7-13 (c) MISS.CODE ANN. (1972), as amended, and

WHEREAS, the Board anticipates that it will not issue more than \$10,000,000.00 of qualified tax-exempt obligations during calendar year 2013 and desires to designate the Lease Purchase Agreement as a qualified tax-exempt obligation of the Lessee for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, ("the Code").

WHEREAS, to the best knowledge and belief of the Board, this lease qualifies as a qualified project bond within the meaning of the Tax Reform Act of 1986; and

WHEREAS, the Hancock Bank of Gulfport, Mississippi, has proposed to acquire the Equipment at the offered price and to lease the Equipment to the Lessee at a rate of 2.82% per annum.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

SECTION 1: The Mayor and City Clerk (hereinafter the "Authorized Officers") are hereby authorized and directed to execute a Lease Purchase Agreement (also referred to as a "Governmental Lease Purchase Agreement"), either reference being the "Agreement", and all attachments thereto. Such Agreement shall be in substantially the form attached hereto with such appropriate variations, omissions and insertions as are permitted or required by this Resolution and as are consented to by the Lessee's representatives (the "Authorized Officers") executing the Agreement, such consent being evidenced by their signatures.

SECTION 2: The Equipment to be leased pursuant to the Agreement shall be more fully described in a schedule to the Agreement titled "Exhibit D - Description of the Equipment". Upon delivery and acceptance by the Lessee of the Equipment, the Authorized Officers are authorized and directed to execute a Certificate of Acceptance of such Equipment and, as provided in Section 4.01 of such Lease, the lease term shall commence on the date of acceptance.

SECTION 3: The Authorized Officers are further authorized and directed to execute on behalf of the Lessee a Financing Statement and all other documents as provided for under Section 7.02 of such Lease to establish and maintain the security interest of Hancock Bank in such Equipment.

SECTION 4: The Board hereby designates the Lease Purchase Agreement as a qualified tax-exempt obligation for purposes of Section 265(b)(3) of the Code.

SECTION 5: The Lessee and the Board understand Section 8.03 of the Agreement ("Provisions Regarding Insurance") and agree to provide property damage and liability insurance in accordance with the terms of the Agreement.

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BOARD MEMBER PONTHIEUX seconded the motion and after a full discussion, the same was put to vote with the following results:

<u>Alderman Parker</u>	Voted: <u>Aye</u>
<u>Alderman Couvillon</u>	Voted: <u>ABSENT, NOT VOTING</u>
<u>Alderman Ponthieux</u>	Voted: <u>Aye</u>
<u>Alderman Anderson</u>	Voted: <u>Aye</u>
<u>Alderman Carrubba</u>	Voted: <u>Aye</u>
<u>Alderman Lishen</u>	Voted: <u>ABSENT, NOT VOTING</u>
<u>Alderman Hammons</u>	Voted: <u>Aye</u>

The motion, having received an affirmative vote, was carried and the resolution adopted, this the 16<sup>th</sup> day of April 2013.

By: William Skellie, Jr.  
Mr. William Skellie, Jr.  
Mayor

{Seal}

Attest: Rebecca E. Schruff  
Ms. Rebecca E. Schruff  
City Clerk

\*

\*

Upon further discussion, Alderman Carrubba made motion seconded by Alderman Parker and unanimously carried to approve the lease purchase agreement and associated documents, as follows:

# Minutes of April 16, 2013 Mayor and Board of Aldermen

## Governmental Lease Purchase Agreement

<p><b>Lessor:</b> Hancock Bank P.O. Box 4019 Gulfport, MS 39502</p>	<p><b>Lessee:</b> City of Long Beach, Mississippi 19148 Commission Road Long Beach, MS 39560</p>	
---	--	--

This GOVERNMENTAL LEASE PURCHASE AGREEMENT (the "Agreement") entered into between HANCOCK BANK, a corporation duly organized and existing under the laws of the State of Mississippi (the "Lessor"), and the CITY OF LONG BEACH, MISSISSIPPI (Lessee), a body, corporate and politic, duly organized and existing under the laws of the State of Mississippi ("State").

### WITNESSETH

WHEREAS, Lessor desires to lease the Equipment, as hereinafter defined, to Lessee, and Lessee desires to lease the Equipment from Lessor, subject to the terms and conditions of, and for the purposes set forth in, this Agreement; and

WHEREAS, Lessee is authorized under the Constitution and laws of the State to enter into this Agreement for the purposes set forth herein;

NOW, THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

### ARTICLE I

**Covenants of Lessee.** Lessee represents, covenants and warrants, for the benefit of Lessor and its assignees, as follows: (a) Lessee is a public body, corporate and politic, duly organized and existing under the Constitution and laws of the State. (b) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic. (c) Lessee is authorized under the Constitution and laws of the State to enter into this Agreement and the transaction contemplated hereby, and to perform all of its obligations hereunder. (d) Lessee has been duly authorized to execute and deliver this Agreement under the terms and provisions of the resolution of its governing body, attached hereto as Exhibit "A", or by other appropriate official approval, and further represents, covenants and warrants that all requirements have been met, and procedures have occurred in order to ensure the enforceability of this Agreement, and Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment hereunder. Lessee shall cause to be executed an opinion of its counsel substantially in the form attached hereto as Exhibit "B". (e) During the term of this Agreement, the Equipment will be used by Lessee only for the purpose of performing one or more governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority and will not be used in a trade or business of any person or entity other than the Lessee. (f) During the period this Agreement is in force, Lessee will provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing fiscal year and such other financial information relating to the ability of Lessee to continue this Agreement as may be reasonably requested by Lessor or its assignee. (g) The Equipment will have a useful life in the hands of the Lessee that is substantially in excess of the Original Term and all Renewal Terms. (h) The Equipment is, and shall remain during the period this Agreement is in force, personal property and when subject to use by Lessee under this Agreement, will not be or become fixtures.

### ARTICLE II

**Definitions:** The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" - means this Governmental Lease Purchase Agreement, including the Exhibits attached hereto, as the same may be supplemented or amended from time to time in accordance with the terms hereof.

"Commencement Date" - is the date when the term of this Agreement begins and Lessee's obligation to pay rent accrues, which date shall be the date on which the Equipment is accepted by Lessee as indicated on the Certificate of Acceptance attached hereto as Exhibit "F".

"Equipment" - means the property described in Exhibit "D" and which is the subject of this Agreement.

"Lease Term" - means the Original Term and all Renewal Terms provided for in this Agreement under Section 4.01, but in no event longer than the number of months set forth in Exhibit "E" of the Agreement.

"Lessee" - means the entity which is described in the first paragraph of this Agreement and which is leasing the Equipment from Lessor under the provisions of this Agreement.

"Lessor" - means (i) Hancock Bank, a corporation, acting as Lessor hereunder; (ii) Any surviving, resulting or transferee corporation; and (iii) Except where the context requires otherwise, any assignee(s) of Lessor.

"Original Term" - means that period from the Commencement Date until the end of the fiscal year of Lessee in effect at the Commencement Date.

"Purchase Price" - means the amount which Lessee may, in its discretion, pay to Lessor in order to purchase the Equipment, as set forth in Exhibit "E" hereto.

"Renewal Term(s)" - means the automatic renewal terms of this Agreement as provided for in Article IV of this Agreement, each having a duration of one (1) year and a term co-extensive with the Lessee's fiscal year except the last of such automatic renewal terms which shall end on the anniversary of the Commencement Date therein.

"Rental Payments" - means the basic rental payments payable by Lessee pursuant to the provisions of this Agreement during the Lease Term, payable in consideration of the right of Lessee to use the Equipment during the then current portion of the Lease Term. Rental Payments shall be payable by Lessee to the Lessor or its assignee in the amounts and at the times during the Lease Term as set forth in Exhibit "E" of this Agreement.

"Vendor" - means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased or is purchasing the Equipment.

# Minutes of April 16, 2013

## Mayor and Board of Aldermen

### ARTICLE III

Lease of Equipment. Lessor hereby demises, leases and lets to Lessee, the Lessee rents, leases and hires from Lessor, the Equipment, in accordance with the provisions of this Agreement, to have and to hold for the Lease Term.

### ARTICLE IV

#### LEASE TERM

##### Section 4.01 Commencement of Lease Term

The original Term of this Agreement shall commence on the Commencement Date as indicated in Exhibit "F" and shall terminate the last day of Lessee's current fiscal year.

The Lease Term will be automatically renewed at the end of the Original Term or any Renewal Term for an additional one (1) year, unless the Lessee gives written notice to Lessor not less than sixty (60) days prior to the end of the Original Term or Renewal Term then in effect, or such greater notice as may be provided in Article VI, of Lessee's intention to terminate this Agreement at the end of the Original Term or the then current Renewal Term pursuant to Article XI or Article VI, as the case may be.

##### Section 4.02 Termination of Lease Term.

The Lease Term will terminate upon the earliest of any of the following events: (a) The expiration of the Original Term or any Renewal Term of this Agreement and the non-renewal of this Agreement in the event of non appropriation of funds pursuant to Section 6.06; (b) The exercise by Lessee of the option to purchase the Equipment granted under the provisions of Articles IX or XI of this Agreement; (c) A default by Lessee and Lessor's election to terminate this Agreement under Article XIII; or (d) The payment by Lessee of all Rental Payments authorized or required to be paid by Lessee hereunder.

### ARTICLE V

Enjoyment of Equipment. Lessor hereby covenants to provide Lessee during the Lease Term with quiet use and enjoyment of the Equipment, and Lessee shall during the Lease Term peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement.

Lessor shall have the right at all reasonable times during business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

### ARTICLE VI

#### Rental Payments

##### Section 6.01 Rental Payments to Constitute a Current Expenses of Lessee.

Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of Lessee.

##### Section 6.02 Payment of Rental Payments.

Lessee shall pay Rental Payments, exclusively from legally available funds, in lawful money of the United States of America to Lessor, or in the event of assignment by Lessor, to its assignee, in the amounts and on the dates set forth in Exhibit "E" hereto. Rental Payments shall be in consideration for Lessee's use of the Equipment during the applicable year in which such payments are due.

##### Section 6.03 Interest and Principal Component.

A portion of each Lease Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal. Exhibit "E" hereto sets forth the interest component and the principal component of each Rental Payment during the Lease Term.

##### Section 6.04 Rental Payments to be Unconditional.

The obligations of Lessee to make payment of the Rental Payments required under this Article VI and other sections hereof, and to perform and observe the covenants and agreements contained herein, shall be absolute and unconditional in all events, except as expressly provided under this Agreement. Notwithstanding any dispute between Lessee and Lessor, and Vendor or any other person, Lessee shall make all payments of Rental Payments when due and shall not withhold any Rental Payments pending final resolution of such dispute, nor shall Lessee assert any right of setoff or counterclaim against its obligation to make such payments required under this Agreement. Lessee's obligation to make Rental Payments during the Original Term or the then current Renewal Term shall not be abated through accident or unforeseen circumstances.

##### Section 6.05 Continuation of Lease Term by Lessee.

Lessee intends, subject to the provisions of Section 6.06 to continue the Lease Term through the Original Term and all of the Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds of an amount sufficient to make all Rental Payments during the Original Term and each of the Renewal Terms can be obtained. Lessee further intends to do all things lawfully within its power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such payments to the extent necessary in each bi-annual or annual budget submitted and adopted in accordance with applicable provisions of state law, to have such portion of the budget approved.

##### Section 6.06 Non-appropriation.

In the event sufficient funds shall not be appropriated for the payment of the Rental Payments required to be paid in the next occurring Renewal Term, and if Lessee has no funds legally available for Rental Payments from other sources, then Lessee may terminate this Agreement at the end of the then current Original Term or Renewal Term, and Lessee shall not be obligated to make payment of the Rental Payments provided for in this Agreement beyond the then current original or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least sixty (60) days prior to the end of the then current Original or Renewal Term. If this Agreement is terminated under this Section 6.06, Lessee agrees, at Lessee's cost and expense, peaceably to deliver the Equipment to Lessor at the location specified by Lessor. To the extent lawful, Lessee shall not, until the date on which the next occurring Renewal Term would have ended, expend any funds for the purchase or use of Equipment similar to the Equipment subject to this Agreement.

### ARTICLE VII

#### TITLE TO EQUIPMENT; SECURITY INTEREST

##### Section 7.01 Title To The Equipment

During the Term of this Agreement, title to the Equipment any and all additions, repairs, replacements or modifications shall vest in Lessee, subject to the rights of Lessor under this Agreement. In the event of default as set forth in Section 13.02 or nonappropriation as set forth in Section 6.06, Title to the Equipment shall immediately vest in Lessor, and Lessee will reasonably surrender possession of the Equipment to Lessor. Lessee, irrevocably, hereby designates, makes, constitutes and appoints Lessor (and all persons designated by Lessor) as Lessee's true and lawful attorney (and agent-in-fact) with power, at such time of default or nonappropriation or times thereafter as Lessor in its sole and absolute discretion may determine, in Lessee's or Lessor's name, to endorse the name of Lessee upon any Bill of Sale, document, instrument, invoice, freight bill, bill of lading or similar document relating to the Equipment in order to vest title in Lessor and transfer possession to Lessor.

##### Section 7.02 Security Interest.

To secure the payment of all Lessee's obligations under this Agreement, Lessee grants to Lessor a security interest constituting a first lien on the Equipment and on all additions, attachments, accessions and substitutions thereto, and on any

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proceeds therefrom. Lessee agrees to execute such additional documents, including financing statements, certificates of title, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain its security interest, and upon assignment, the security of any assignee of Lessor, in the Equipment.

### ARTICLE VIII

**Maintenance; modification taxes, exemption from federal taxation, insurance and other charges.**

#### Section 8.01 Maintenance of Equipment by Lessee.

Lessee agrees that at all times during the Lease Term, Lessee will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition, and that Lessee will from time to time make or cause to be made all necessary and proper repairs, replacements and renewals. Lessor shall have no responsibility in any of these matters or for the making of improvements or additions to the Equipment. The Lessee may from time to time add further parts or accessories to any item of leased Equipment, provided such addition does not affect or impair the value or utility of such item of Equipment. Any part or accessory so added, if not required as a replacement hereunder, shall remain the property of the Lessee and may be removed at any time prior to the expiration of the lease term of such item, provided such removal does not affect or impair the value or utility of such item of Equipment. Any parts or accessories not so removed shall become the property of the Lessor.

#### Section 8.02 Taxes, Other Governmental Charges and Utility Charges.

The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all taxes presently assessed and levied with respect to personal property. In the event that the use, possession or acquisition of the Equipment is found to be subject to taxation in any form (except for income taxes of Lessor), Lessee will pay during the Lease Term, as the same respectively come due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Equipment and any Equipment or other property acquired by Lessee in substitution for, as a renewal or replacement of, or modification, improvement or addition to the Equipment, as well as all gas, water, steam, electricity, heat, power, telephone, utility and all other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Equipment; provided that, with respect to any governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as have accrued during the time this Agreement is in effect.

The Lessor has entered into this Agreement contemplating that the interest portion of rental payments will be exempt from federal income taxation. In the event any governmental taxing authority successfully imposes tax treatment, under this Agreement or any other lease of the Lessor which in the opinion of Lessor's counsel will be determinative of the tax treatment under this Agreement, which differs from the tax treatment contemplated to be taken by the Lessor hereto at the inception of this Agreement or which effectively denies to the Lessor the use or benefit of such tax treatment as contemplated, then Lessee agrees to pay rents with an interest factor equal to the maximum rate of interest which, under applicable law, Lessor is permitted to charge, retroactively from the date of imposition of the change of tax treatment through the term of each Equipment Lease Schedule under this Agreement during which the change of tax theory is imposed, and subsequently thereto, as rental payments would otherwise become due, until the end of the lease term. Any retroactive payments of rent under this paragraph shall be due and payable at the date that Lessor gives notice to Lessee of imposition of the change of tax-treatment.

Lessee agrees to pay its pro-rata share of attorney's fees that may reasonably be incurred by Lessor in the event legal action or administrative action is taken by the Lessor to secure the tax treatment intended to be taken by Lessor under this Agreement or any other lease

which in the opinion of Lessor's counsel will be determinative of the tax treatment under this Agreement whether such action is successful or not. Lessee's pro-rata share shall be determined by the percentage that the Lessor's original cost of leased equipment for all other similar leases of the Lessor involving similar issues of fact or law. In the event the Lessor is successful in securing the tax treatment intended to be taken by Lessor, Lessor shall refund to Lessee the total amount of increased interest (as hereinabove provided) which has been paid by Lessee and rental payments for the remainder of the lease term shall be the original rentals specified in the Equipment Lease Schedules.

#### Section 8.03 Provisions Regarding Insurance.

At its own expense, Lessee shall cause casualty, public liability and property damage insurance to be carried and maintained sufficient to protect the Full Insurable Value (as that term is hereinafter defined) of the Equipment, and to protect Lessor from liability in all events. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Agreement. Lessee shall furnish to Lessor Certificates evidencing such coverage throughout the Lease Term. Such Certificates shall name the Lessor as an additional insured or loss payee, as Lessor's interests may appear.

Alternatively, Lessee may insure the Equipment under a blanket insurance policy or policies which cover not only the Equipment, but other properties.

The term "Full Insurable Value" as used herein shall mean the full replacement value of the Equipment or the then applicable Purchase Price, whichever is greater.

Any insurance policy pursuant to this Section 8.03 shall be written with Hancock Bank as an additional insured or loss payee, as its interests may appear. The Net Proceeds (as defined in Section 9.01) of the insurance required in this Section 8.03 shall be applied as provided in Article IX hereof. Each insurance policy provided for in this Section 8.03 shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interest of Lessor without first giving written notice thereof to Lessor at least ten (10) days in advance of such cancellation.

The Lessee will at all times carry liability insurance from a third party insurer, such coverage being for the joint benefit of the Lessee and Lessor and with the Lessor named as an additional insured.

Under this Agreement, the Lessee is required to maintain property damage insurance from a third party insurer, against loss, theft, damage or destruction from every cause whatsoever for not less than the Full Insurable Value of the Equipment. Alternately, with regard to property damage insurance, and subject to the terms of this Agreement, including the preceding paragraphs of this Section 8.03, the Lessee may optionally elect to self insure through a self insurance program ("Self-Insurance"), against loss, theft, damage or destruction from every cause whatsoever for not less than the Full Insurable Value of the Equipment. Such Self-Insurance shall be in the joint names of the Lessor and Lessee, with the Lessor and Lessee named as loss payees. With regard to any Self-Insurance, which is alternatively elected, chosen, initiated and maintained by the Lessee, in order to meet the requirements of this Agreement, the Lessee does hereby declare and name the Lessor as a joint and additional insured and loss payee with regard to Self-Insurance which, Lessee alternately chooses to implement and maintain in order to meet its responsibilities under this Agreement. With regard to any Self-Insurance elected, in substitution for third party insurance as required by the Agreement, the Lessee agrees that it will at all times maintain sufficient monetary and other necessary resources, under its Self-Insurance election, to enable the Lessee to meet all of its obligations under this Agreement. The Lessee, and the Lessee's Governing Body, agree and declare that they individually and collectively have the necessary experience and sophistication in matters pertaining to any and all risks and responsibilities taken and assumed with the alternative election and choice of Self-Insurance. The Lessee, and the Lessee's Governing Body, individually and collectively understand, that there will be no abatement or reduction of responsibilities under this Agreement (including making rental payments) by Lessee for any reason, including but not limited to, the election of Self-Insurance, loss, theft, damage or destruction from any cause whatsoever.

#### Section 8.04 Advances.

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In the event Lessee shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Equipment in good repair and operating condition, Lessor may (but shall be under no obligation to) purchase the required policies of insurance and pay the premiums on the same or may make such repairs or replacements which are necessary and provide for payment thereof; and all amounts so advanced therefore by Lessor shall become additional rent for the then current Original Term or Renewal Term which amounts Lessee agrees to pay, together with interest thereon at the rate of twelve (12%) per cent per annum or the highest rate permitted by applicable law, whichever is less.

## ARTICLE IX DAMAGES, DESTRUCTION AND CONDEMNATION: USE OF NET PROCEEDS

### Section 9.01 Damages, Destruction and Condemnation.

Unless Lessee shall have exercised its option to purchase the Equipment by making payment of the Purchase Price as provided herein, if prior to the termination of the Lease Term: (A) the Equipment or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty; or (B) title to, or the temporary use of, the Equipment of any part thereof or the estate of Lessee or Lessor in the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to Lessee's obligations pursuant to Section 9.02 hereof.

For purposes of Section 8.03 and this Article IX, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award deducting all expenses (including attorney's fees) incurred in the collection of such claim or award.

### Section 9.02 Insufficiency of Net Proceeds.

Provided, the Equipment is not deemed to be a total loss, Lessee shall if Lessee is not in default hereunder, cause the repair, replacement or restoration of the Property and pay the cost thereof.

In the event of total destruction or damage to the Equipment, whether or not Lessee is in default, at Lessor's option, Lessee shall pay to Lessor on the rent payment due date next succeeding the date of such loss ("Rent Payment Due Date") the amount of the Purchase Price applicable to such Rent Payment Due Date, plus the Rental Payment due on such date, plus any other amounts payable by Lessee hereunder, and, upon such payment, the Lease Term shall terminate and Lessor's security interest in the Equipment shall terminate as provided in Article XI of this Agreement. The amount of the Net Proceeds in excess of the then applicable Purchase Price, if any, may be retained by Lessee. Lessee agrees that if the Net proceeds are insufficient to pay in full Lessee's obligations hereunder, Lessee shall make such payments to the extent of any such deficiency. Lessee shall not be entitled to any reimbursement therefore from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article VI hereof.

## ARTICLE X DISCLAIMER OF WARRANTIES; VENDOR'S WARRANTIES; USE OF THE EQUIPMENT

### Section 10.01 Disclaimer of Warranties.

Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, mechanism or fitness for particular purposes or fitness for use of the Equipment, or warranty with respect thereto. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement or the existence, furnishing, functioning or Lessee's use of any item or products or services provided for in this Agreement.

### Section 10.02 Vendor's Warranties.

Lessor hereby agrees to assign to Lessee solely for the purpose of making and prosecuting any such claim against Vendor, all of the rights which Lessor has against Vendor for breach of warranty or other representation respecting the Equipment. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Equipment, and not against the Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive fully and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties of the Vendor of the Equipment.

### Section 10.03 Use of the Equipment.

Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all laws of the jurisdiction in which its operations involving any item of Equipment may extend and any legislative, administrative or judicial body exercising any power or jurisdiction over the items of the Equipment; provided, however, that Lessee may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the estate of Lessor in and to any of the items of the Equipment or its interest or rights under this Agreement.

## ARTICLE XI

**Option to Purchase.** At the request of Lessee, Lessor's security interest in the Equipment will be terminated and this Agreement shall terminate: (a) At the end of the Lease Term (including Renewal Terms), upon payment in full of the Rental Payments and other amounts payable by Lessee hereunder; or (b) At the end of the Original Term or any Renewal Term upon payment by Lessee of the then applicable Purchase Price; or (c) If the Lease Term is terminated pursuant to Article IX of this Agreement.

## ARTICLE XII

### ASSIGNMENT; SUBLEASING; INDEMNIFICATION; MORTGAGING AND SELLING

#### Section 12.01 Assignment by Lessor.

This Agreement, and the obligations of Lessee to make payments hereunder, may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor at any time subsequent to its execution, without the necessity of obtaining the consent of Lessee. Lessor agrees to give notice of assignment to Lessee and upon receipt of such notice Lessee agrees to make all payments to the assignee designated in the assignment, notwithstanding any claim, defense, set off or counterclaim whatsoever (whether arising from a breach of this Agreement or otherwise) that Lessee may from time to time have against Lessor, or the assignee. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements which may be reasonably requested by Lessor or its assignee to protect their interests in the Equipment and in this Agreement.

#### Section 12.02 No Sale, Assignment or Subleasing by Lessee.

This Agreement and the interest of Lessee in the Equipment may not be sold, assigned or encumbered by Lessee without the prior written consent of Lessor.

#### Section 12.03 Release and Indemnification Covenants.

To the extent permitted by the laws and Constitution of the State, Lessee shall protect, hold harmless and indemnify Lessor from and against any and all liability obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest arising out of or as the result of the entering into of this Agreement, the ownership of any item of the Equipment, the ordering acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person. The indemnification arising under this paragraph shall

# Minutes of April 16, 2013

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continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason. Lessee agrees not to withhold or abate any portion of the payments required pursuant to this Agreement by reason of any defects, malfunctions, breakdowns, or infirmities of the Equipment.

### ARTICLE XIII EVENTS OF DEFAULT BY LESSEE AND REMEDIES THEREUPON

#### Section 13.01 Events of Default by Lessee Defined.

With respect to Lessee, the following shall be "Events of Default" under this Agreement and the terms "Event of Default" and "Default" shall mean, whenever they are used in this Agreement, any one or more of the following events: (a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time specified herein; or (b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Section 13.01(a), for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied as given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected; or (c) Breach of any material representation or warranty by Lessee under this Agreement; or (d) Commencement by Lessee of a case or proceeding under the Federal bankruptcy laws or filing by Lessee of any petition or answer seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any existing or future bankruptcy, insolvency or other similar law or any answer admitting or not contesting the material allegations of a petition filed against Lessee in any such proceeding; or (e) A Petition against Lessee in a proceeding under any existing or future bankruptcy, insolvency or other similar law shall be filed and not withdrawn or dismissed within thirty (30) days thereafter.

The foregoing provisions of this Section 13.01 are subject to (i) the provisions of Section 6.06 hereof with respect to nonappropriation; and (ii) if by reason of force majeure Lessee is unable in whole or in part to carry out its agreement on its part herein contained, other than the obligations on the part of the Lessee contained in Article VI hereof, Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: Acts of God, strikes, lockouts or other industrial disturbances; acts of public enemies, order or restraints of any kind of the government of the United States of America or of the State wherein Lessee is located or any of their department, agencies or officials, or any civil or military authority; insurrections; riot, landslides; earthquakes; fire, storms; droughts; floods; or explosions.

#### Section 13.02 Remedies on Default.

Whenever any event of default referred to in section 13.01 hereof shall have happened and be continuing, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps: (a) with or without terminating this Agreement, retake possession of the Equipment and sell, lease or sublease the Equipment for the account of Lessee, to be applied to Lessee's obligations hereunder, holding Lessee liable for the Purchase Price applicable on the rent payment due date immediately preceding the date of default, plus the Rental payments due on such date, plus any other amounts payable by Lessee hereunder, including, but not limited to, attorney's fees expenses and costs of repossession; (b) Require Lessee at Lessee's risk and expense to promptly return the Equipment in the manner and in the condition set forth in Section 6.06 and 8.01 hereof; (c) If the Lessor is unable to repossess the Equipment for any reason, the Equipment shall be deemed a total loss and Lessee shall pay to Lessor the amount due pursuant to Article IX hereof; and (d) Take whatever action at law or in equity may appear necessary or desirable to enforce its rights as the owner of the Equipment.

#### Section 13.03 No Remedy Exclusive.

No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power and may be exercised from time to time and as often as may be deemed expedient.

### ARTICLE XIV

#### LESSOR'S WARRANTIES

#### Section 14.01 Lessor's Warranties.

As to each item of leased Equipment to be leased hereunder, the Lessor warrants that: (a) It has the right to lease the same to Lessee. (b) It will keep each item of leased Equipment free of security interests except for the security interest provided for in Section 7.02 of this Agreement. (c) It will do nothing to disturb Lessee's full right of possession and enjoyment thereof and the exercise of Lessee's rights with respect to the Equipment leased hereunder subject to compliance by Lessee of the terms of this Agreement.

### ARTICLE XV

#### MISCELLANEOUS

#### Section 15.01 Notices.

All notices, certificates of other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, to the parties at their respective places of business.

#### Section 15.02 Binding Effect.

This Agreement shall insure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

#### Section 15.03 Severability.

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

#### Section 15.04 Amendments.

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written instrument signed by the Lessor and the Lessee; nor shall any such amendment that affects the rights of Lessor's assignee be effective without such assignee's consent.

#### Section 15.05 Execution in Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

#### Section 15.06 Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi.

#### Section 15.07 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 provisions of sections of the Agreement.

#### Section 15.08 Entire Agreement.

This Agreement constitutes the entire Agreement between Lessor and Lessee. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements,

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representations or warranties, express or implied, not specified herein regarding this Agreement or the Equipment lease hereunder. Any terms and conditions of any purchase order or other document (with the exception of Supplements) submitted by Lessee in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on Lessor and will not apply to this Agreement. Lessor and Lessee by their signatures acknowledge that each has read this Agreement, understands it, and agrees to be bound by its terms and conditions, and certifies that each signature is duly authorized and the signers are empowered to execute this Agreement on behalf of their respective principals.

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IN WITNESS WHEREOF, Lessor has executed this Agreement in its corporate name with its corporate seal hereunder affixed and attested by its duly authorized officer, and Lessee has caused this Agreement to be executed in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers. All of the above occurred as of the date first written below.

LESSOR: HANCOCK BANK

LESSEE: CITY OF LONG BEACH, MS

By: \_\_\_\_\_  
MR. JONATHAN KING  
PUBLIC FINANCE OFFICER

By:   
MR. WILLIAM SKELLIE, JR.  
MAYOR

As of \_\_\_\_\_, 2013

As of APRIL 16, 2013

ATTEST:

By:   
MS. REBECCA E. SCHRUFF  
CITY CLERK

{CITY SEAL}

As of April 16, 2013

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**EXHIBIT "C"  
CERTIFICATE AS TO ARBITRAGE**

We, the undersigned, **CITY OF LONG BEACH, MS** (the "Lessee") being the person duly charged, with others, with responsibility for issuing the Lessee's obligation in the form of that certain agreement entitled "Governmental Lease Purchase Agreement" (the "Agreement") dated APRIL 16, 2013 and issued said date hereby certify that:

1. The Agreement was issued by the Lessee under and pursuant to SEC. 31-7-13(e) MISS. CODE ANN. (1972) Law to finance the acquisition of certain equipment described therein.
2. Pursuant to the Agreement, the Lessee is entitled to receive said equipment in consideration for the obligation of the Lessee under the Agreement. Said equipment will be used in furtherance of the public purposes of the Lessee. The Lessee does not intend to sell equipment or said Agreement or to otherwise dispose of said equipment during the term of the Agreement. The Lessee will not receive any monies, funds, or other "proceeds" as a result of the Agreement.
3. The Lessee expects to make payments under the Agreement from its general funds on the basis of annual appropriations in amount equal to the required payments under the Agreement. The remaining general funds of the Lessee are not reasonably expected to be used to make such payments and no other monies are pledged to the Agreement or reasonably expected to be used to pay principal and interest on the Agreement.
4. The Lessee has not received notice that its Certificate may not be relied upon with respect to its own issues nor has it been advised that any adverse action by the Commissioner of Internal Revenue is contemplated.

To the best of our knowledge, information and belief the expectations herein expressed are reasonable and there are no facts, estimates or circumstances other than those expressed herein that would materially affect the expectations herein expressed.

IN WITNESS WHEREOF, we have hereunto set our hands this 16<sup>th</sup> day of April 2013.

**CITY OF LONG BEACH, MS**

By: William Skellie, Jr.  
William Skellie, Jr.  
Mayor

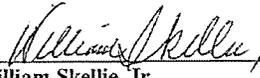
By: Rebecca E. Schriff  
Rebecca E. Schriff  
City Clerk

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EXHIBIT "D"  
DESCRIPTION OF EQUIPMENT

The Equipment that is listed on the invoices attached to this Exhibit D is the subject of the Governmental Lease Purchase Agreement dated April 16, 2013 entered into between Hancock Bank and the City of Long Beach, Mississippi. Lessee hereby certifies that the description of the personal property set forth in the attached invoices constitutes an accurate description of the "Equipment", as defined in the above referenced Governmental Lease Purchase Agreement.

CITY OF LONG BEACH, MS

By:   
William Skellie, Jr.  
Mayor

By:   
Rebecca E. Schrup  
City Clerk

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EXHIBIT "E"  
RENTAL PAYMENTS

Annual rentals on this agreement are \$43,765.90. The first rental on this agreement will be due on the TBD day of TBD Month 2014 and subsequent annual rentals will be due on TBD each year thereafter. The lease term of this agreement is 10 annual payments with a \$1.00 Purchase Option available to the Lessee at contract end. The purchase price during the original or any renewal term shall be the amount set forth as the "balance" or "outstanding balance" on the attached amortization schedule plus \$1.00 plus accrued but unpaid interest amounts as set forth on the attached schedule plus other amounts payable by lessee under the terms of the lease.

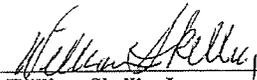
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EXHIBIT "F"  
ACCEPTANCE CERTIFICATE

The undersigned, CITY OF LONG BEACH, MS as Lessee under the Governmental Lease Purchase Agreement (the "Agreement") dated April 16, 2013 with HANCOCK BANK ("Lessor"), acknowledges receipt in good condition of all of the Equipment described in the Agreement and Exhibit "D" thereto this April 16, 2013 and certifies that Lessor has fully and satisfactorily performed all of its covenants and obligations required under the Agreement to date.

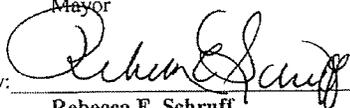
CITY OF LONG BEACH, MS

By: \_\_\_\_\_

  
William Skellie, Jr.

Mayor

By: \_\_\_\_\_

  
Rebecca E. Schruff

City Clerk

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EXHIBIT G  
ESSENTIAL USE/SOURCE OF FUNDS LETTER

TO: HANCOCK BANK

RE: Governmental Lease Purchase Agreement

Gentlemen:

Reference is made to that certain Governmental Lease Purchase Agreement, dated APRIL 16, 2013 ("Lease"), between Lessor and us, CITY OF LONG BEACH, MS as Lessee, leasing the personal property ("Property") described in Exhibit "D" to such Lease. This confirms and affirms that the Property is essential to the functions of the undersigned as or to the service we provided to our citizens.

Further, we have an immediate need for, and expect to make immediate use of, substantially all the Property, which need is not temporarily or expected to diminish in the foreseeable future. The Property will be used by us only for the purpose of performing one or more of the governmental or proprietary functions consistent with the permissible scope of our authority.

We expect and anticipate adequate funds to be available for all future payments of rent due after the current fiscal year in as much as there will be a continued need for such property.

Very truly yours,

CITY OF LONG BEACH, MS

By: William Skellie, Jr.  
William Skellie, Jr.

Mayor

By: Rebecca E. Schuff  
Rebecca E. Schuff  
City Clerk

**Minutes of April 16, 2013  
Mayor and Board of Aldermen**

**Exhibit H  
BILL OF SALE**

For and in consideration of the purchase price of \$376,785.00 paid by Hancock Bank, Gulfport, Mississippi ("Lessor"), to the City of Long Beach, MS ("Lessee"), receipt of which is hereby acknowledged, the Lessee hereby sells, assigns, and transfers to Lessor, the equipment (the "Equipment") now in the possession of Lessee as described on Exhibit D and the attachments thereto.

It is agreed that the Equipment is to remain in the possession of Lessee but that the possession thereof by Lessee shall, from and after the date hereof, be subject to the Governmental Lease Purchase Agreement dated as of APRIL 16, 2013 between Lessor and Lessee (the "Agreement"), with the same effect as though the Equipment had been acquired by Lessor and delivered to Lessee as of the date hereof. The rental applicable to the Equipment shall be determined in accordance with the terms of the Agreement.

Lessee hereby represents and warrants that the Equipment is now in the possession of the Lessee and hereby transfers to Lessor the Equipment free and clear of any and all liens and encumbrances, subject to re-conveyance and retention of title to Lessee as provided in the Agreement.

Lessee hereby agrees, upon request of Lessor, to execute and deliver any other instruments, papers, or documents which may be required, or desirable, in the opinion of Lessor in order to give effect to this Bill of Sale.

IN WITNESS WHEREOF Lessee has duly executed this Bill of Sale as of this 16<sup>th</sup> day of April 2013.

CITY OF LONG BEACH, MS

BY: William Skellie, Jr.  
William Skellie, Jr.

BY: Rebecca E. Schuff  
Mayor  
Rebecca E. Schuff  
City Clerk

Minutes of April 16, 2013  
Mayor and Board of Aldermen

Exhibit J  
ASSIGNMENT OF PURCHASE ORDERS

For value received, the CITY OF LONG BEACH, MS ("Assignor") does hereby, sell, assign and transfer to Hancock Bank, Gulfport, Mississippi ("Assignee") all its right, title and interest in and to and delegates all its duties under the purchase orders attached hereto and made a part hereof (the "Purchase Orders"), including without limitation the right to take title to the equipment (the "Equipment") described in the Purchase Orders and to be named as purchaser in any bills of sale and/or invoices to be delivered in connection therewith, subject to the provisions of the Agreement with respect to the transfer of title to Lessee.

The Assignor represents that the Purchase Orders are in full force and effect and enforceable in accordance with the terms thereof, and are assignable and the duties thereunder delegable and that this Assignment is a valid exercise of the rights of the Assignor.

This Assignment is executed for the purpose of enabling Assignee to purchase the Equipment specified on the Purchase Orders which Assignee will lease to Assignor pursuant to a certain Governmental Lease Purchase Agreement dated as of APRIL 16, 2013 and of which this Assignment constitutes an integral part, and is subject to the provisions of the Agreement with respect to the transfer of title to Lessee.

Assignee has caused or will cause all actions to be taken as provided in the Purchase Orders assigned hereby including those pertaining to the delivery, installation, quality and quantities of Equipment.

EXECUTED this 16<sup>th</sup> day of April 2013.

CITY OF LONG BEACH, MS

BY: William Skellie, Jr.  
William Skellie, Jr.

BY: Rebecca E. Schryff  
Rebecca E. Schryff  
City Clerk

Minutes of April 16, 2013  
Mayor and Board of Aldermen

Exhibit K  
ASSIGNMENT OF INVOICES

For value received, the CITY OF LONG BEACH, MS ("Assignor") does hereby sell, assign and transfer to Hancock Bank, Gulfport, Mississippi ("Assignee") all its right, title and interest in and to and delegates its duties under the invoices attached hereto and made a part hereof (the "Invoices").

The Assignor represents that the Invoices are in full force and effect and are assignable and that this Assignment is a valid exercise of the rights of the Assignor.

This Assignment is executed for the purpose of establishing in Assignee clear title to the equipment specified on the Invoices which equipment is subject to that certain Governmental Lease Purchase Agreement dated as of APRIL 16, 2013 by the Assignor and Assignee, of which this Assignment constitutes an integral part, including those provisions for the transfer and retention of title to Lessee as provided in the Agreement.

This Assignment of Invoices is executed as of this 16<sup>th</sup> day of April 2013.

CITY OF LONG BEACH, MS

BY: William Skellie, Jr.  
William Skellie, Jr.  
Mayor

BY: Rebecca E. Schruft  
Rebecca E. Schruft  
City Clerk

Minutes of April 16, 2013  
Mayor and Board of Aldermen

EXHIBIT L  
CERTIFICATE WITH RESPECT TO  
QUALIFIED TAX-EXEMPT OBLIGATION

We, the undersigned representatives of the CITY OF LONG BEACH, MS (the "Lessee") being the persons duly charged, with others, with responsibility for issuing the Lessee's obligation in the form of that certain agreement entitled "Governmental Lease Purchase Agreement" (the "Agreement") dated APRIL 16, 2013 and issued said date hereby certify that:

1. This Certificate is executed for the purpose of establishing that the Lease has been designated by Lessee as a qualified tax-exempt obligation of Lessee for purposes of the Tax Reform Act of 1986.
2. The Lease being issued by Lessee is in calendar year 2013.
3. No portion of the gross proceeds of the Lease will be used to make or finance loans to persons other than governmental units or be used in any trade or business carried on by any person other than a governmental unit.
4. To the best knowledge and belief of Lessee the Lease is issued to provide financing as a qualified project bond within the meaning of the Act.
5. Including the Lease herein so designated, Lessee has not designated more than \$10,000,000.00 of obligations issued during calendar year 2013 as qualified tax-exempt obligations.
6. Lessee reasonably anticipates that the total amount of qualified tax-exempt obligations to be issued by lessee during calendar year 2013 will not exceed \$10,000,000.00.

To the best of our knowledge, information and belief the expectations herein expressed are reasonable and there are no facts, estimates or circumstances other than those expressed herein that would materially affect the expectations herein expressed.

IN WITNESS WHEREOF, we have hereunto set our hands this 16<sup>th</sup> day of April 2013.

CITY OF LONG BEACH, MS

By: William Skellie, Jr.  
William Skellie, Jr.

Mayor  
By: Rebecca E. Schmitt  
Rebecca E. Schmitt  
City Clerk

Minutes of April 16, 2013  
Mayor and Board of Aldermen

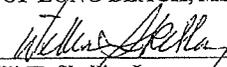
EXHIBIT M  
AGREEMENT TO TENDER VEHICLE TITLE TO LESSOR

We, the undersigned officers of City of Long Beach, Mississippi ("Lessee"), being the persons duly charged, with others, with responsibility for issuing the Lessee's obligation in the form of that certain agreement entitled "Governmental Lease Purchase Agreement (the "Agreement") dated as of APRIL 16 hereby agree to give to Hancock Bank ("Lessor") the title to the vehicle being financed through the above referenced Agreement within ten days of receipt of the title from the State of Mississippi.

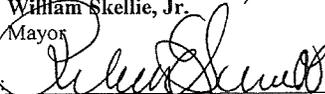
Upon receipt of the vehicle title from the Lessee, Hancock Bank will file a title application with the State of Mississippi in order that Hancock Bank may be shown as lien holder on the vehicle.

IN WITNESS WHEREOF, we have hereunto set our hands as of this 16<sup>th</sup> day of April, 2013.

CITY OF LONG BEACH, MS

By: 

William Skellie, Jr.  
Mayor

By: 

Rebecca E. Schruiff  
City Clerk

# Minutes of April 16, 2013 Mayor and Board of Aldermen

Form <b>8038-G</b> (Rev. September 2011)  Department of the Treasury Internal Revenue Service	<b>Information Return for Tax-Exempt Governmental Obligations</b> ▶ Under Internal Revenue Code section 149(e) ▶ See separate instructions. Caution: If the issue price is under \$100,000, use Form 8038-GC.	OMB No. 1545-0720			
<b>Part I Reporting Authority</b> <span style="float: right;">If Amended Return, check here <input type="checkbox"/></span>					
1 Issuer's name City of Long Beach, MS.	2 Issuer's employer identification number (EIN) 64-6000637				
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions) Rebecca Schruoff, City Clerk	3b Telephone number of other person shown on 3a 228-863-1556				
4 Number and street (or P.O. box if mail is not delivered to street address) Room/suite 201 Jeff Davis Avenue	5 Report number (For IRS Use Only) 3				
6 City, town, or post office, state, and ZIP code Long Beach, MS 39560	7 Date of issue				
8 Name of issue City of Long Beach, MS LP Series 2013	9 CUSIP number				
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Rebecca Schruoff, City Clerk	10b Telephone number of officer or other employee shown on 10a 228-863-1556				
<b>Part II Type of Issue (enter the issue price). See the instructions and attach schedule.</b>					
11 Education . . . . .	11				
12 Health and hospital . . . . .	12				
13 Transportation . . . . .	13				
14 Public safety . . . . .	14	\$376,785 00			
15 Environment (including sewage bonds) . . . . .	15				
16 Housing . . . . .	16				
17 Utilities . . . . .	17				
18 Other. Describe ▶	18				
19 If obligations are TANs or RANs, check only box 19a . . . . . ▶ <input type="checkbox"/>					
If obligations are BANs, check only box 19b . . . . . ▶ <input type="checkbox"/>					
20 If obligations are in the form of a lease or installment sale, check box . . . . . ▶ <input type="checkbox"/>					
<b>Part III Description of Obligations. Complete for the entire issue for which this form is being filed.</b>					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$ 376,785.00	\$	years	2.82 %
<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>					
22 Proceeds used for accrued interest . . . . .	22				
23 Issue price of entire issue (enter amount from line 21, column (b)) . . . . .	23	\$376,785			00
24 Proceeds used for bond issuance costs (including underwriters' discount) . . . . .	24				
25 Proceeds used for credit enhancement . . . . .	25				
26 Proceeds allocated to reasonably required reserve or replacement fund . . . . .	26				
27 Proceeds used to currently refund prior issues . . . . .	27				
28 Proceeds used to advance refund prior issues . . . . .	28				
29 Total (add lines 24 through 28) . . . . .	29				
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . .	30	\$376,785			00
<b>Part V Description of Refunded Bonds. Complete this part only for refunding bonds.</b>					
31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . . ▶					years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . . ▶					years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . . ▶					
34 Enter the date(s) the refunded bonds were issued ▶ (MM/DD/YYYY)					

## Minutes of April 16, 2013 Mayor and Board of Aldermen

Form 8038-G (Rev. 9-2011)

Page **2**

**Part VI** Miscellaneous

<p><b>35</b> Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .</p> <p><b>36a</b> Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .</p> <p style="padding-left: 20px;"><b>b</b> Enter the final maturity date of the GIC ▶ _____</p> <p style="padding-left: 20px;"><b>c</b> Enter the name of the GIC provider ▶ _____</p> <p><b>37</b> Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .</p> <p><b>38a</b> If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:</p> <p style="padding-left: 20px;"><b>b</b> Enter the date of the master pool obligation ▶ _____</p> <p style="padding-left: 20px;"><b>c</b> Enter the EIN of the issuer of the master pool obligation ▶ _____</p> <p style="padding-left: 20px;"><b>d</b> Enter the name of the issuer of the master pool obligation ▶ _____</p> <p><b>39</b> If the issuer has designated the issue under section 265(b)(3)(B)(i)(iii) (small issuer exception), check box . . . . . <input checked="" type="checkbox"/></p> <p><b>40</b> If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . . <input type="checkbox"/></p> <p><b>41a</b> If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:</p> <p style="padding-left: 20px;"><b>b</b> Name of hedge provider ▶ _____</p> <p style="padding-left: 20px;"><b>c</b> Type of hedge ▶ _____</p> <p style="padding-left: 20px;"><b>d</b> Term of hedge ▶ _____</p> <p><b>42</b> If the issuer has superintegrated the hedge, check box . . . . . <input type="checkbox"/></p> <p><b>43</b> If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . . <input type="checkbox"/></p> <p><b>44</b> If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . . <input type="checkbox"/></p> <p><b>45a</b> If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____</p> <p style="padding-left: 20px;"><b>b</b> Enter the date the official intent was adopted ▶ _____</p>	<p><b>35</b></p> <p><b>36a</b></p> <p><b>37</b></p>	
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<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.				
			Rebecca Schruff-City Clerk <small>Type or print name and title</small>		
	Signature of issuer's authorized representative	Date			
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶	Firm's EIN ▶			
	Firm's address ▶	Phone no.			

Form 8038-G (Rev. 9-2011)

Minutes of April 16, 2013  
Mayor and Board of Aldermen

**WISE CARTER**  
WISE CARTER CHILD & CARAWAY, P.A.  
ATTORNEYS AT LAW

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[nch@wisecarter.com](mailto:nch@wisecarter.com)

T. RUSSELL NOBILE  
[trn@wisecarter.com](mailto:trn@wisecarter.com)

Gulf Coast Office:  
1105 30<sup>th</sup> Avenue, Ste 300  
Gulfport, Mississippi 39501  
Phone: 228-867-7141  
Fax: 228-867-7142

April 16, 2013

Hancock Bank  
Public Finance Dept.  
Post Office Box 4019  
Gulfport, MS 39502

RE: Lease-Purchase of Equipment by the City of Long Beach, MS

Gentlemen:

Pursuant to your request, we hereby render the following opinion regarding the Governmental Lease Purchase Agreement (the "Agreement"), dated April 16, 2013 between the City of Long Beach, Mississippi (the "Lessee") and Hancock Bank (the "Lessor").

We have acted as counsel to the Lessee with respect to certain legal matters pertaining to the Agreement, and to the transactions contemplated thereby. We are familiar with the Agreement and we have examined such agreements, schedules, statements, certificates, records, including minutes of the governing body of the Lessee and any other governing authority, and other instruments of public officials, Lessee, and other persons, as we have considered necessary or proper as a basis for the opinions hereinafter stated.

Based on such examination, we are of the opinion that:

1. Lessee has full power, authority and legal right to purchase equipment, as defined in the Agreement, and to execute, deliver and perform the terms of the Agreement. The purchase of the equipment and the execution, delivery and performance of the Agreement has been duly authorized by all necessary action on the part of Lessee and any other governing authority and does not require the approval of, or giving of notice to, any other federal, state, local, or foreign governmental authority and does not contravene any law binding on Lessee or contravene any indenture, credit agreement or other agreement to which Lessee is a party

JACKSON: 401 E. CAPITOL ST., HERITAGE BLDG., SUITE 600, JACKSON, MS 39201 • P.O. BOX 651, JACKSON, MS 39205-0651 • PH.601.968.5500 FAX.601.968.5593  
GULF COAST: 1105 30TH AVENUE, SUITE 300, GULFPORT, MS 39501-1817 • PH.228.867.7141 FAX.228.867.7142  
HATTIESBURG: 601 ADELINE ST., HATTIESBURG, MS 39401 • P.O. BOX 990, HATTIESBURG, MS 39403-0990 • PH.601.582.5551 FAX.601.582.5556

[www.wisecarter.com](http://www.wisecarter.com)

Minutes of April 16, 2013  
Mayor and Board of Aldermen

or by which it is bound. The Agreement grants the Lessor a valid, first priority security interest in the Equipment.

2. The agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms.

3. All required procedures and laws for the purchase of the equipment and the execution, delivery and performance of the Agreement, including competitive bidding, if applicable, have been complied with, and all will be paid out of funds which are legally available for such purposes.

4. With respect to the tax-exempt status of the portion of rental payments under the Agreement, under present law:

(a) The Agreement is a conditional sales agreement which qualifies as an obligation for purposes of Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury regulations and rulings thereunder.

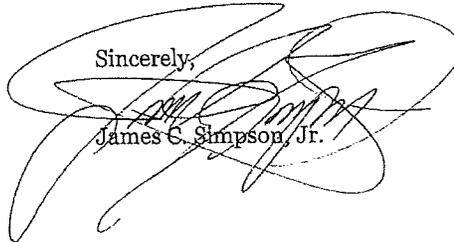
(b) The interest portion of the rental payments under the terms of the Agreement is exempt from federal income taxation pursuant to Section 103(a) of the Code and the Treasury regulations and rulings thereunder. The interest portion of the rental payments under the terms of the Agreement is exempt from Mississippi Income Taxation.

5. The Lessee has designated the Agreement as a qualified tax-exempt obligation of Lessee for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986.

6. There are no pending or threatened actions or proceedings before any court, administrative agency or other tribunal or body against Lessee which may materially affect Lessee's financial condition or operations; or which could have any effect whatsoever upon the validity, performance or enforceability of the terms of the Agreement.

This opinion is being furnished to you in connection with the above-referenced transaction. The opinions expressed herein are for the sole benefit of and may be relied upon by the Lessor and its assigns and are not to be delivered to or relied upon by any other party without prior written consent.

JCSJR:mmc

Sincerely,  
  
James C. Simpson, Jr.

\*\*\*\*\*

There were no public comments regarding general matters not appearing on the agenda.

\*\*\*\*\*

Due to the Republican Party Primary Election scheduled for Tuesday, May 7, 2013, Alderman Anderson made motion seconded by Alderman Ponthieux and unanimously carried to cancel the regular meeting scheduled for election day and recess to Wednesday, May 8, 2013, at 5:00 o'clock p.m.

Minutes of April 16, 2013  
Mayor and Board of Aldermen

\*\*\*\*\*

APPROVED:

\_\_\_\_\_  
Alderman Leonard G. Carrubba, Sr., At-Large

\_\_\_\_\_  
Alderman Gary J. Ponthieux, Ward 1

\_\_\_\_\_  
Alderman Bernie Parker, Ward 2

\_\_\_\_\_  
Alderman Kaye H. Couvillon, Ward 3

\_\_\_\_\_  
Alderman Ronnie Hammons, Jr., Ward 4

\_\_\_\_\_  
Alderman Mark E. Lishen, Ward 5

\_\_\_\_\_  
Alderman Carolyn J. Anderson, Ward 6

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Rebecca E. Schruff, City Clerk