

Minutes of September 16, 2010
Long Beach Port Commission

Be it remembered that a regular meeting of the Port Commission of the City of Long Beach, Mississippi, was begun and held at the Long Beach School District Central Office, 19148 Commission Road, in said City at 5:30 o'clock p.m., it being the third Thursday in September, 2010, and the same being the time, date, and place fixed for holding said meeting.

There were present and in attendance on said Commission and at the meeting the following named persons: Commission President Phil Kies, Secretary Barbara Reed, Commissioners David Marks, Vernon Ehlers, Charles Purchner, Danny Hansen, Barney Hill, Harbormaster Michael White, City Clerk Rebecca E. Schruoff and City Attorney James C. Simpson, Jr.

Absent the meeting were Commission Vice President James Hancock and Commissioner Rod Rishel.

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

The meeting was called to order and there were no public comments or amendments to the agenda.

There came on for consideration the approval of Port Commission minutes and Commissioner Ehlers made motion seconded by Commissioner Purchner and unanimously carried, as follows:

- Approve the regular meeting and executive session minutes dated August 19, 2010, as submitted;
- Approve the recess meeting and executive session minutes dated August 25, 2010, as submitted.
- Approve the recess meeting minutes dated August 30, 2010, as submitted.

Commissioner Purchner made motion seconded by Commissioner Hansen and unanimously carried to accept the letter of resignation, Commissioner Rod Rishel, dated September 13, 2010.

Commission President Kies recognized Project Manager Ron Robertson, Broaddus and Associates, for project updates and, based upon the recommendations of Mr. Robertson, the following actions were taken:

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- Commissioner Marks made motion seconded by Commissioner Hansen and unanimously carried to approve the following Harbormaster Building Work Order:

EXHIBIT 2

WORK ORDER

Issued Pursuant to Master Services Agreement
Effective – October 17, 2008

By and Between
Broaddus & Associates, Inc. ("Broaddus & Associates")
and City of Long Beach, Mississippi ("Client")

Client Contact Name: Mayor Billy Skellie or Phil Kies	Broaddus & Associates Office: Gulfport, MS
Contact Phone Number: 228-863-1556	Broaddus & Associates Contact: Ron Roberson
Contact E-Mail Address: mayor@cityoflongbeachms.com or PKies@baytech.net	Broaddus & Associates Project Number: B08126.10
Client Reference Number:	

1. Scope of Work:
Project Management Services for Harbormaster Building
2. Location/Client Facility Involved:
Long Beach Harbor
3. Period of Performance:
October 17, 2008 thru completion and acceptance of the subject construction project and FEMA closeout.
4. Authorized Funding Source:
FEMA public assistance and Tidelands Funding
5. Special Provisions:
Not To Exceed the project management fee amount approved by FEMA.

Client: Port Commission and the City of
Long Beach, MS

Broaddus & Associates:

By:

By:

Name: Billy Skellie /Phil Kies

Name: James A. Broaddus, PhD, P.E.

Title: Mayor /Pres. Port Commission

Title: President

Date: July 1, 2010

Date: July 1, 2010

Address:

645 Klondyke Road
Long Beach, MS 39560

Address:

2510 14th Street
Suite 810
Gulfport, MS 39501

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- Commissioner Reed made motion seconded by Commissioner Ehlers and unanimously carried to approve the following Harbor Bait Shop Work Order:

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EXHIBIT 2

WORK ORDER

Issued Pursuant to Master Services Agreement
Effective – October 17, 2008

By and Between
Broaddus & Associates, Inc. ("Broaddus & Associates")
and City of Long Beach, Mississippi ("Client")

Client Contact Name:	Broaddus & Associates Office:
Mayor Billy Skellie or Phil Kies	Gulfport, MS
Contact Phone Number:	Broaddus & Associates Contact:
228-863-1556	Ron Roberson
Contact E-Mail Address:	Broaddus & Associates Project Number:
mayor@cityoflongbeachms.com or PKies@baytech.net	B10126
Client Reference Number:	

1. Scope of Work:
Project Management Services for Harbor Bait Shop
2. Location/Client Facility Involved:
Long Beach Harbor
3. Period of Performance:
October 17, 2008 thru completion and acceptance of the subject construction project and FEMA closeout.
4. Authorized Funding Source:
FEMA public assistance and Tidelands Funding
5. Special Provisions:
Not To Exceed the project management fee amount approved by FEMA.

Client: Port Commission and the City of
Long Beach, MS

Broaddus & Associates:

By: _____
Name: Billy Skellie /Phil Kies
Title: Mayor /Pres. Port Commission
Date: July 1, 2010
Address:
645 Klondyke Road
Long Beach, MS 39560

By: _____
Name: James A. Broaddus, PhD, P.E.
Title: President
Date: July 1, 2010
Address:
2510 14th Street
Suite 810
Gulfport, MS 39501

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- Commissioner Marks made motion seconded by Commissioner Hansen and unanimously carried to approve Change Order #4, Harbor Master Building Project, H. Gordon Myrick, Inc., in the amount of \$904.00; upon further discussion, Commissioner Hansen made motion seconded by Commissioner Purchner to approve Final Settlement, Harbormaster Building, all as follows:

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M E M O R A N D U M

TO: Long Beach Port Commission
and The City of Long Beach

FROM: Ron Robertson, Project Manager

SUBJECT: Harbor Master Building Project, PW 5852
Final Acceptance – H. Gordon Myrick, Inc., Contractor
Final Pay Application #13

DATE: September 8, 2010

CC: Candice Murphy, MEMA Horne Group
Michael Costelli, Simpkins & Costelli
Phil Kies, President Port Commission
Mike Penny, H. Gordon Myrick, Inc.
Stacey Loveless/David Ball, A. Garner Russell Engineers

This is to advise and certify that the above referenced project has been satisfactorily completed in substantial conformance with the contract documents. I therefore recommend final settlement with the contractor, in accordance with the following enclosed documents:

1. Change Order #4, non-skid paint for floors at \$904.00
2. Final Pay Application #13 for \$107,827.30
3. Certificate of Substantial Completion
4. Contractor's Affidavit of Release of Liens
5. Contractors Affidavit of Payment of Debts and Claims
6. Contractor's Warranty letter

Please find included *Pay App #13 from H. Gordon Myrick, INC. for period ending September 8, 2010* and a spreadsheet detailing percentage of recommended payment from Insurance, FEMA and Tideland Funding sources. Broaddus & Associates recommends paying; **\$5,966.81** from Insurance funds, **\$74,609.49** from FEMA funds and **\$27,251.00** from Tidelands funding as detailed in the attached spreadsheet. This is in accordance with corresponding Final Pay Application #13 from H. Gordon Myrick, Inc, for **\$107,827.30** as certified by Simpkins & Costelli, Inc.

Should there be any questions, please do not hesitate to contact me.

Best Regards,

Ron Robertson, Project Manager
Broaddus & Associates
(228) 224-0339

Attachments

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Harbor Master Building, City of Long Beach
Funding Summary (note: Tidelands Project is Stand alone)

Pay Application # 13 Final
Period Ending 9/8/2010

		Funding Sources		Tidelands	
		Insurance	FEMA	Bulkhead/Fill/Upgrades	
Orig. Contract - FEMA Proj.		\$ 60,000.00	\$ 745,268.00		\$ 805,268.00
Org. Tidelands Project				\$ 190,946.00	
Change Orders					TTL. Tidelands
Limestone	1	\$ -	\$ -	\$ 48,688.00	\$ 272,510.00
Catwalk	2	\$ -	\$ -	\$ 30,546.00	
Stud outs	3	\$ -	\$ 495.00	\$ 1,426.00	
Floor non-skid paint	4			\$ 904.00	
Total CO		\$ -	\$ 495.00	\$ 81,564.00	\$ 495.00
FEMA Project		\$ 60,000.00	\$ 745,763.00		
Tidelands Project				\$ 272,510.00	Total Contract
					\$ 1,078,273.00

Total FEMA Completed				\$ 272,510.00	\$ 805,763.00
Total Tidelands Completed				\$ 272,510.00	\$ 272,510.00
Total Base and CO Completed and Stored		\$ 60,000.00	\$ 745,763.00	\$ 272,510.00	\$ 1,078,273.00
Total Retainage		\$ -		\$ -	\$ -
Total Earned less Retainage		\$ 60,000.00	\$ 745,763.00	\$ 272,510.00	\$ 1,078,272.99
Previous Payments thru # 12		\$ 54,033.19	\$ 671,153.51	\$ 245,259.00	\$ 970,445.70
Totals, Pay App # 13		\$ 5,966.81	\$ 74,609.49	\$ 27,251.00	\$ 107,827.30

100.00% 100.00% 100.00% 100.00%

		Previous Payments			C & S App'd Amt.
Pay App No.		Insurance	FEMA	Tidelands	
9/30/2009	1	\$3,460.35	\$42,145.26	\$11,848.59	\$57,454.20
10/31/2009	2	\$1,179.78	\$15,490.41	\$2,918.31	\$19,588.50
11/30/2009	3	\$1,435.25	\$17,827.38	\$4,567.57	\$23,830.20
12/31/2009	4	\$14,798.90	\$183,819.01	\$47,096.49	\$245,714.40
1/31/2010	5	\$1,435.67	\$17,832.77	\$4,568.96	\$23,837.40
2/28/2010	6	\$5,727.25	\$71,139.07	\$40,977.88	\$117,844.20
3/31/2010	7	\$1,306.70	\$16,230.50	\$87,963.50	\$105,500.70
4/30/2010	8	\$7,918.85	\$98,361.25	\$5,909.40	\$112,189.50
5/31/2010	9	\$8,163.16	\$101,395.64	\$8,285.40	\$117,844.20
6/30/2010	10	\$4,751.90	\$59,023.90	\$1,534.50	\$65,310.30
7/31/2010	11	\$3,274.13	\$40,668.37	\$26,074.80	\$70,017.30
8/31/2010	12	\$581.25	\$7,219.95	\$3,513.60	\$11,314.80
	13				\$0.00
	14				\$0.00
Total Previous Payments		\$54,033.19	\$671,153.51	\$245,259.00	\$970,445.70

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CHANGE ORDER

No. Four (4)

DATE OF ISSUANCE : **August 30, 2010**

EFFECTIVE DATE: **August 30, 2010**

OWNER	City of Long Beach	
CONTRACTOR	H. Gordon Myrick, Inc.	
Contract:	Harbormaster Building Bulkhead	
Project:	Harbormaster Building Bulkhead	
OWNER's Contract No.	_____	ENGINEER's Contract No. 0630
ENGINEER	Simpkins & Costelli, Inc.	

You are directed to make the following changes in the Contract Documents:

- Description: **1. Paint concrete floor with non-slip additive at 2nd floor breezeway and 1st floor elevated slab in lieu concrete sealer as specified.**

Reason for Change Order: **Per Owner request.**

Attachments: (List documents supporting change)

- 1. 8/05/2010 letter from H. Gordon Myrick, Inc.**

CHANGE IN CONTRACT PRICE:
Original Contract Price \$996,214.00
Net Increase (Decrease) from previous Change Orders No. <u>1</u> to <u>3</u> : \$81,155.00
Contract Price prior to this Change Order: \$1,077,369.00
Net increase of this Change Order: \$904.00
Contract Price with all approved Change Orders: \$1,078,273.00

CHANGE IN CONTRACT TIMES:
Original Contract Times: Substantial Completion: _____ Ready for final payment: 270 days (days or dates)
Net change from previous Change Orders No. <u>1</u> to No. <u>3</u> : Substantial Completion: _____ Ready for final payment: 52 days (days)
Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: 322 days (days or dates)
Net increase this Change Order: Substantial Completion: _____ Ready for final payment: 4 days
Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: 326 days (days or dates)

RECOMMENDED: Simpkins & Costelli, Inc. By: <u>[Signature]</u> ENGINEER (Authorized Signature)	APPROVED: City of Long Beach By: _____ OWNER (Authorized Signature)
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ACCEPTED H. Gordon Myrick, Inc. By: <u>[Signature]</u> CONTRACTOR (Authorized Signature)

Date: 9/2/10

Date: _____

Date: 9-2-10

EJCDC 1910-8-B (1996 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute.

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HGM

CONTRACTOR INC

We build trust.

August 5, 2010

Mr. Michael Costelli
Simpkins & Costelli, Inc.
401 32-½ Street
Gulfport, MS 39507

RE: Harbormaster Building
Long Beach, MS

Dear Mr. Costelli,

Per the Harbormaster's request, please accept the following change order quotation:

Delete Concrete Sealer as Specified and indicated on Construction Drawings
Mechanically abrade the concrete flooring using diamond grit floor grinding
Apply two (2) coats of Sherwin Williams Armor Seal 1000 with non-slip additive
at the 2nd floor Breezeway - Color to be Light Grey.

Our price to complete this work is \$904. We request an additional 4 days time extension to our contract for completion of this work. Please review these changes and call me with any questions or comments.

Sincerely,

H. GORDON MYRICK, INC.

Michael Penny

Michael Penny

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CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT Harbormaster Building
DATE OF ISSUANCE August 31, 2010

OWNER City of Long Beach, MS
OWNER's Contract No.
CONTRACTOR H. Gordon Myrick, Inc. ENGINEER Simpkins & Costelli, Inc.

This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

TO City of Long Beach, MS
OWNER
And To H. Gordon Myrick, Inc.
CONTRACTOR

The Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

..... August 16, 2010
DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within 30 days of the above date of Substantial Completion.

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From the date of Substantial Completion the responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

RESPONSIBILITIES:

OWNER: _____

CONTRACTOR: _____

The following documents are attached to and made a part of this Certificate:

[For items to be attached see definition of Substantial Completion as supplemented and other specifically noted conditions precedent to achieving Substantial Completion as required by Contract Documents.]

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents.

Executed by ENGINEER on August 31, 2010

Simpkins & Costelli, Inc.

ENGINEER

By: *M. Klaus*
(Authorized Signature)

CONTRACTOR accepts this Certificate of Substantial Completion on August 31, 2010

H. Gordon Myrick, Inc.

CONTRACTOR

By: *H. Gordon Myrick*

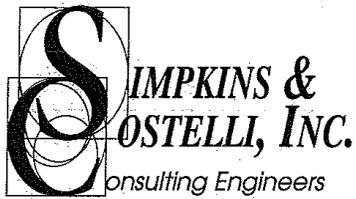
OWNER accepts this Certificate of Substantial Completion on August 31, 2010

City of Long Beach, MS

OWNER

By: _____
(Authorized Signature)

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Civil - Structural

August 16, 2010

S&C 0630.3.8

Re: Harbormaster Building
Long Beach, MS

Substantial Completion Punchlist Items (Civil & Structural)

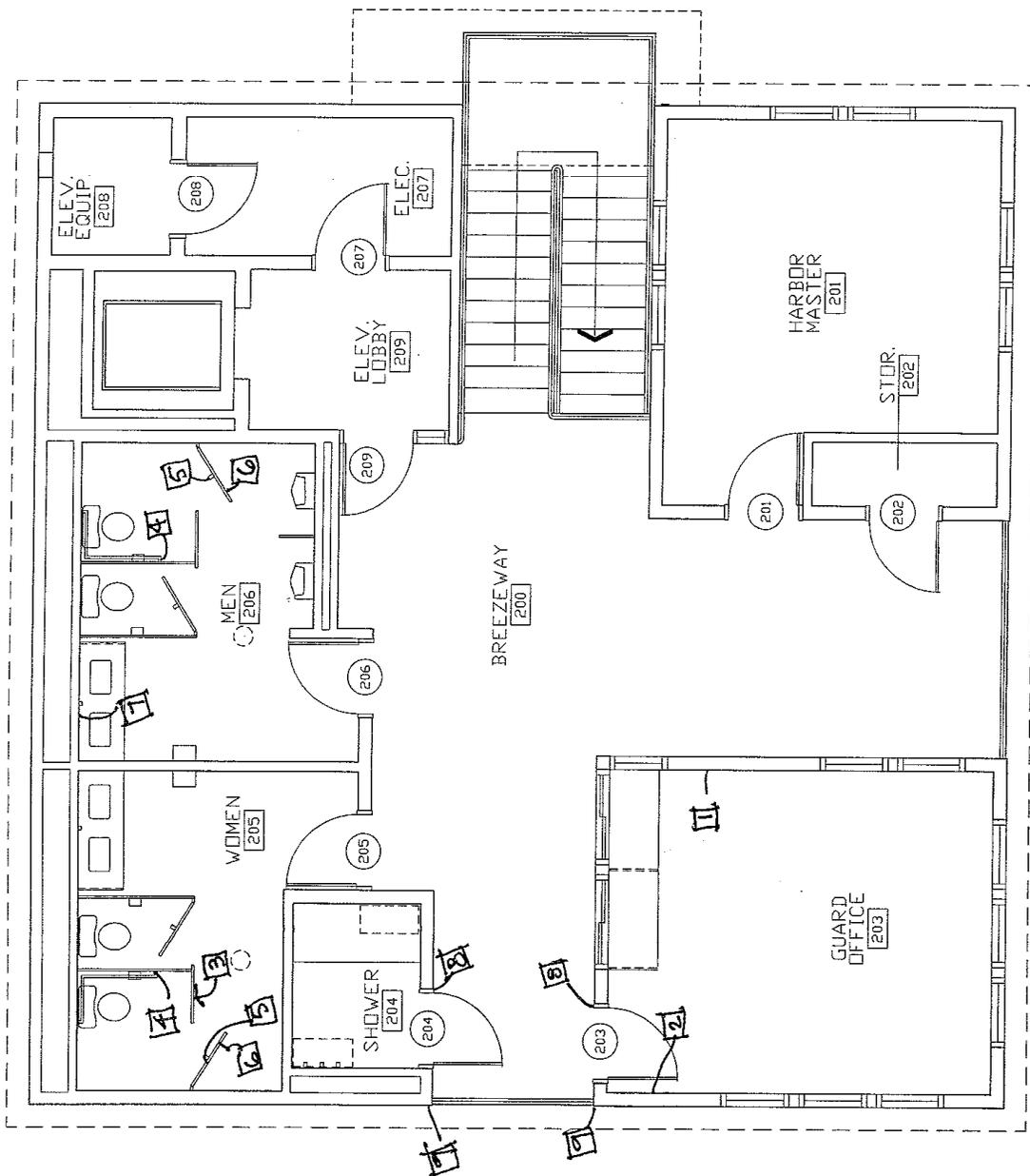
1. Add washers to nuts at tops of concrete pile columns.
2. Tighten rod bracing.
3. Install rubber joint around first floor slab perimeter.
4. Clean aluminum posts for handicap signs.
5. Install aluminum caps on top of handicap parking sign posts.
6. Paint angle clip for gate post at second floor walkway. Also paint welds at bases.
7. Asphalt patch required in road at sewer tie-in.
8. Install PVC unions on vertical sewer piping in wet well.
9. Do not drill precast columns.
10. Provide O&M Manuals.
11. Provide as-built plans.
12. Provide all required closeout documents.

David P. LeBlanc

cc: H. Gordon Myrick, Inc.
Ron Robertson, Broaddus & Associates
David Ball, City Engineer

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ELC/MS/ED



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No. Thirteen (13) Final

RECOMMENDATION OF PAYMENT

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OWNER's Project No. _____ ENGINEER's Project No. 0630
Project Harbormaster Building, Long Beach, MS

=====

CONTRACTOR H. Gordon Myrick, Inc.
Contract For Harbormaster Building Contract Date August 20, 2009
Application Date September 2, 2010 Application Amount \$107,827.30
For Period Ending September 8, 2010

=====

To City of Long Beach, Mississippi
OWNER

Attached hereto is the CONTRACTOR's Application for Payment for Work accomplished under the Contract through the date indicated above. The Application meets the requirements of the Contract Documents and includes the CONTRACTOR's Certificate stating that all previous payments to him under the Contract have been applied by him to discharge in full all of his obligations in connection with the Work covered by all prior Applications for Payments.

In accordance with the Contract the undersigned recommends payment to the CONTRACTOR of the amount due as shown below.

Simpkins & Costelli, Inc.
ENGINEER

Dated September 8, 2010

By: Mina Costello

STATEMENT OF WORK

Original Contract Price	\$ <u>996,214.00</u>	Work to Date	\$ <u>1,078,273.00</u>
Net Change Orders	\$ <u>82,059.00</u>	Amount Retained	\$ <u>-0-</u>
Current Contract Price	\$ <u>1,078,273.00</u>	Subtotal	\$ <u>1,078,273.00</u>
Work to be Done	\$ <u>-0-</u>	Previous Payments Recommended	\$ <u>970,445.70</u>
		Amount Due	\$ <u>107,827.30</u>

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APPLICATION AND CERTIFICATION FOR PAYMENT

TO OWNER: **City of Long Beach**
Long Beach, MS

PROJECT: **Long Beach Harbormaster**
704 Cleveland Avenue South
Long Beach, MS

PERIOD TO: **September 8, 2010**

CONTRACTOR: OWNER
 ARCHITECT
 CONTRACTOR

PAGE ONE OF _____ PAGES

AIA DOCUMENT G702

APPLICATION NO: FINAL

FROM CONTRACTOR:
H. Gordon Myrick, Inc.
3207 D. Avenue
Gulfport, MS 39507

ARCHITECT: **Simpkins & Costelli, Inc.**
401 32-1/2 Street
Gulfport, MS 39507

CONTRACT FOR: **NEW CONSTRUCTION**

CONTRACT DATE: **August 20, 2009**

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$ 996,214.00
2. Net change by Change Orders \$ 82,059.00
3. CONTRACT SUM TO DATE (Line 1 + 2) \$ 1,078,273.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 1,078,273.00
5. RETAINAGE:
 - a. 10 % of Completed Work \$ 0.00
(Column D + E on G703)
 - b. 10 % of Stored Material \$ 0.00
(Column F on G703)
6. TOTAL EARNED LESS RETAINAGE \$ 0.00
(Line 4 Less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ 970,445.70
8. CURRENT PAYMENT DUE \$ 107,827.30
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$ 0.00

CONTRACTOR: **GORDON MYRICK, INC.**

By:  Date: **September 8, 2010**
Michael H. Penny, Comptroller
State of: **Mississippi** County of: **Harrison**
Subscribed and sworn to before me this **8th** day of **September, 2010**
Notary Public: **Ceryl Verhoeven**
My Commission expires: **April 2, 2011**

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ **107,827.30**

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$82,059.00	\$0.00
Total approved this Month	\$0.00	\$0.00
TOTALS	\$82,059.00	\$0.00
NET CHANGES by Change Order		\$82,059.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

By:  Date: **9/8/10**
Michael Costelli
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

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APPLICATION AND CERTIFICATE FOR PAYMENT

H. GORDON MYRICK, INC. P.O. BOX 1479 GULFPORT, MS 39502	APPLICATION NUMBER APPLICATION DATE PERIOD FROM TO PROJECT #	FINAL 9/8/2010 09/01/10 09/08/10 09006	OWNER PROJECT	City Of Long Beach, MS Long Beach Harbormaster Long Beach, MS
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ITEM NO.	DESCRIPTION OF WORK	C SCHEDULED VALUE	D(FROM G)			E (ENTER)		F (ENTER)		G (D+E+F) TOTAL COMPLETE & STORED TO DATE	(G/C) PERCENT COMPLETE	H (C-G) BALANCE TO FINISH
			D(FROM G) PREVIOUS APPLICATION	WORK COMPLETED		E (ENTER) WORK IN PLACE	F (ENTER) STORED MATERIAL					
				THIS APPLICATION								
Elevation, ADA & Superstructure												
1000	Special & General	56,046	56,046	0	0	0	0	56,046	100.00%	0		
1104	Special Insurances	30,960	30,960	0	0	0	0	30,960	100.00%	0		
1111	Testing	10,196	10,196	0	0	0	0	10,196	100.00%	0		
2388	Concrete Piles	107,302	107,302	0	0	0	0	107,302	100.00%	0		
2711	Fencing	4,268	4,268	0	0	0	0	4,268	100.00%	0		
3300	Concrete Work	119,264	119,264	0	0	0	0	119,264	100.00%	0		
4200	Masonry	11,773	11,773	0	0	0	0	11,773	100.00%	0		
5120	Structural Steel	42,584	42,584	0	0	0	0	42,584	100.00%	0		
6100	Elevator Rooms	4,117	4,117	0	0	0	0	4,117	100.00%	0		
9900	Painting	11,097	11,097	0	0	0	0	11,097	100.00%	0		
14240	Elevator	50,695	50,695	0	0	0	0	50,695	100.00%	0		
15400	Plumbing & HVAC	1,572	1,572	0	0	0	0	1,572	100.00%	0		
16000	Electrical	5,183	5,183	0	0	0	0	5,183	100.00%	0		
	Labor Burden	12,876	12,876	0	0	0	0	12,876	100.00%	0		
SUBTOTAL		467,933	467,933	0	0	0	0	467,933	100.00%	0		
Building Only Costs												
1000	Special & General	40,585	40,585	0	0	0	0	40,585	100.00%	0		
1104	Special Insurances	19,258	19,258	0	0	0	0	19,258	100.00%	0		
2050	Demolition	11,076	11,076	0	0	0	0	11,076	100.00%	0		
2200	Excavation & Backfill	3,228	3,228	0	0	0	0	3,228	100.00%	0		
2603	Force Main Sewer System	14,500	14,500	0	0	0	0	14,500	100.00%	0		
6100	Rough Carpentry	89,612	89,612	0	0	0	0	89,612	100.00%	0		
6200	Finish Carpentry	10,292	10,292	0	0	0	0	10,292	100.00%	0		
7210	Insulation	2,643	2,643	0	0	0	0	2,643	100.00%	0		
7414	Roofing	7,053	7,053	0	0	0	0	7,053	100.00%	0		
7620	Flashing	1,234	1,234	0	0	0	0	1,234	100.00%	0		
7900	Sealants	2,468	2,468	0	0	0	0	2,468	100.00%	0		
8100	Hollow Metal	8,262	8,262	0	0	0	0	8,262	100.00%	0		
8611	Clad Windows	17,463	17,463	0	0	0	0	17,463	100.00%	0		
8700	Finish Hardware	802	802	0	0	0	0	802	100.00%	0		
9250	Gypsum Drywall	2,900	2,900	0	0	0	0	2,900	100.00%	0		
9300	Tile	1,222	1,222	0	0	0	0	1,222	100.00%	0		
9650	Rubber Base	864	864	0	0	0	0	864	100.00%	0		
9900	Painting	23,946	23,946	0	0	0	0	23,946	100.00%	0		
10000	Specialty Items	6,319	6,319	0	0	0	0	6,319	100.00%	0		
15400	Plumbing	35,014	35,014	0	0	0	0	35,014	100.00%	0		
15600	HVAC	8,765	8,765	0	0	0	0	8,765	100.00%	0		
16000	Electrical	20,505	20,505	0	0	0	0	20,505	100.00%	0		
	CO#3-Electrical & Sewer	1,426	1,426	0	0	0	0	1,426	100.00%	0		
	Labor Burden	9,324	9,324	0	0	0	0	9,324	100.00%	0		
SUBTOTAL		338,761	338,761	0	0	0	0	338,761	100.00%	0		
Other												
2518	Brick Pavers	7,158	7,158	0	0	0	0	7,158	100.00%	0		
2367	Bulkhead & Fill	173,469	173,469	0	0	0	0	173,469	100.00%	0		
7170	Hardi Plank Siding	3,413	3,413	0	0	0	0	3,413	100.00%	0		
7414B	Metal Roofing	6,906	6,906	0	0	0	0	6,906	100.00%	0		
	CO#1 Limestone Fill	48,688	48,688	0	0	0	0	48,688	100.00%	0		
	CO#2-Cultured Marble Shower	5,961	5,961	0	0	0	0	5,961	100.00%	0		
	CO#2-Steel Catwalk	24,585	24,585	0	0	0	0	24,585	100.00%	0		
	CO#3-Bait Shop Utilities	495	495	0	0	0	0	495	100.00%	0		
	CO #4-Floor Epoxy	904	904	0	0	0	0	904	100.00%	0		
SUBTOTAL		271,579	271,579	0	0	0	0	271,579	100.00%	0		
TOTALS		1,078,273	1,078,273	0	0	0	0	1,078,273	100.00%	0		

**Minutes of September 16, 2010
Long Beach Port Commission**



We build trust.

September 8, 2010

City of Long Beach
Long Beach, MS

RE: Harbormaster Building
Long Beach, MS

Ladies and Gentlemen,

We hereby certify that all work has been completed in accordance with the requirements of the Contract Documents for this project. To the best of our knowledge, no asbestos containing materials were used during the construction of this project.

We hereby guarantee all work performed by H. Gordon Myrick, Inc. on the above referenced project to be free from defective materials and workmanship for a period of one (1) year from the date of Completion (August 16, 2010).

If you have any questions regarding this project, please contact our office.

Respectfully Submitted,

H. Gordon Myrick, Inc.

A handwritten signature in black ink, appearing to read 'Michael Penny'. The signature is stylized and cursive.

Michael Penny

Minutes of September 16, 2010
Long Beach Port Commission

**CONSENT OF
SURETY COMPANY
TO FINAL PAYMENT**

OWNER
ARCHITECT
CONTRACTOR
SURETY
OTHER

Bond #: 105332208

AIA DOCUMENT G707

PROJECT: HARBORMASTER BUILDING LONG BEACH, MS
(name, address)

TO (Owner)

CITY OF LONG BEACH, MISSISSIPPI
645 KLONDYKE ROAD
LONG BEACH, MS 39560

ARCHITECT'S PROJECT NO:

CONTRACT FOR: CONSTRUCTION

CONTRACT DATE: August 20, 2009

CONTRACTOR: H. Gordon Myrick, Inc.
3207 D Avenue
Gulfport, MS 39507

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

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

ONE TOWER SQUARE, HARTFORD, CT 06183-6014

, SURETY COMPANY,

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

H. Gordon Myrick, Inc.

3207 D AVENUE GULFPORT, MS 39507

, CONTRACTOR,

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

CITY OF LONG BEACH, MISSISSIPPI

645 KLONDYKE ROAD LONG BEACH, MS 39560

, OWNER,

as set forth in the said Surety Company's bond. The Travelers hereby consents to final payment based upon the representation by

The Owner that the Owner has properly and timely published a notice of completion of this project in accordance with Miss. Law.

IN WITNESS WHEREOF,

the Surety Company has hereunto set its hand this 2nd day of SEPTEMBER, 2010

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
Surety Company

Attest:
(Seal):

Marian Sherry


Signature of Authorized Representative

John B. Sneed, Attorney-In-Fact, MS Resident Agent
Title

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

AIA DOCUMENT G707 * CONSENT OF SURETY COMPANY TO FINAL PAYMENT * APRIL 1970 EDITION * AIA®
1970 * THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., NW, WASHINGTON, D.C. 20006

ONE PAGE

Minutes of September 16, 2010 Long Beach Port Commission

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 220479

Certificate No. 002867425

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

John B. Sneed, L. Wayne Tisdale, Scott Naugle of Gulfport, Mississippi; Jim E. Brashier, Troy P. Wagener, Norma J. McMahon, Loren Richard Howell, Jr., Andrew Rice, Kathleen Scarborough of Biloxi, Mississippi, David Robin Fortenberry, Richard Teb Jones, Mary Jones Norval, Kimberly Barhum of Hattiesburg, Mississippi; John W. Nance, Teresa Farris of Tupelo, Mississippi; Andrew P. Underwood of Mobile, Alabama; Chris H. Boone, John R. Pittman, Sr., and Sharon Tuten

of the City of Jackson, State of Mississippi, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 26th day of September, 2008.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: *George W. Thompson*
George W. Thompson, Senior Vice President

On this the 26th day of September, 2008, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2011.



Marie C. Tetreault
Marie C. Tetreault, Notary Public

58440-5-07 Printed in U.S.A.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

Minutes of September 16, 2010

Long Beach Port Commission

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

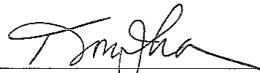
FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of September, 2010.


Kori M. Johanson, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

Minutes of September 16, 2010

Long Beach Port Commission

CONTRACTOR'S AFFIDAVIT OF RELEASE OF LIENS

AIA Document G706A

(Instructions on reverse side)

OWNER
ARCHITECT
CONTRACTOR
SURETY
OTHER

TO OWNER: **City of Long Beach**
(Name and address) **Long Beach, MS**

ARCHITECT'S PROJECT NO.: **0630**

CONTRACT FOR: **New Construction**

PROJECT: **Harbormaster Building**
(Name and address) **Long Beach, MS**

CONTRACT DATED: **August 20, 2009**

STATE OF: **Mississippi**
COUNTY OF: **Harrison**

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS:

NONE

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: **H. Gordon Myrick, Inc.**
(Name and address) **3207 D Avenue**
Gulfport, MS 39507

BY: _____

(Signature of authorized representative)

Michael Penny, Project Manager

(Printed name and title)

Subscribed and sworn to before me on this date: **9/7/10**

Notary Public: _____

My Commission Expires: **April 2, 2011**



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G706A—1994

Minutes of September 16, 2010

Long Beach Port Commission

INSTRUCTION SHEET

FOR AIA DOCUMENT G706A, CONTRACTOR'S AFFIDAVIT OF RELEASE OF LIENS

A. GENERAL INFORMATION

1. Purpose

This document is intended for use as a companion to AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims.

2. Related Documents

This document may be used with most of the AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. As noted above, G706A is a companion document to AIA Document G706.

3. Use of Current Documents

Prior to using any AIA document, the user should consult the AIA, an AIA component chapter or a current AIA Documents List to determine the current edition of each document.

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B. CHANGES FROM THE PREVIOUS EDITION

A cross-reference to AIA Document A201 has been deleted to permit the use of G706A with other families of AIA documents, including construction management, interiors and design/build.

C. COMPLETING THE G706A FORM

GENERAL: The Owner-Contractor Agreement is the usual source of required information such as the contract date and the names and addresses of the Owner, Project and Contractor.

ARCHITECT'S PROJECT NO.: This information is typically supplied by the Architect and entered on the form by the Contractor.

CONTRACT FOR: This refers to the scope of the contract, such as "General Construction" or "Mechanical Work".

AFFIDAVIT: Indicate the state and county where the Affidavit is made. This is not necessarily the same location as the Project, but should be the location where the notary is authorized to administer sworn oaths. If there are any **EXCEPTIONS** to the statement, these should be listed in the space provided; otherwise enter as "None". It may be a stipulation of the Contract Documents that the Owner has the right to require the Contractor to furnish a bond to cover each exception listed on the Affidavit.

SUPPORTING DOCUMENTS: The AIA does not publish a "Release or Waiver of Liens" for contractors or subcontractors because of the great diversity of releases or waivers permitted by various state mechanics lien laws. Forms for such purposes may be available from local contractors' associations or may be written with the assistance of legal counsel.

D. EXECUTION OF THE DOCUMENT

The Notary Public should administer a sworn oath to the Contractor referencing the written statements appearing on G706A, and should duly sign and seal this document containing the Contractor's signature. G706A should be signed by the Contractor or the Contractor's authorized representative.

Minutes of September 16, 2010 Long Beach Port Commission

**CONTRACTOR'S AFFIDAVIT OF
PAYMENT OF DEBTS AND CLAIMS**

AIA Document G706

(Instructions on reverse side)

OWNER
ARCHITECT
CONTRACTOR
SURETY
OTHER

TO OWNER: **City of Long Beach**
(Name and address) **Long Beach, MS**

ARCHITECT'S PROJECT NO.: **0630**

CONTRACT FOR: **New Construction**

PROJECT: **Harbormaster Building**
(Name and address) **Long Beach, MS**

CONTRACT DATED: **August 20, 2009**

STATE OF: **Mississippi**
COUNTY OF: **Harrison**

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

NONE

SUPPORTING DOCUMENTS ATTACHED HERETO:

- Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707, Consent of Surety, may be used for this purpose.

Indicate attachment: yes no

The following supporting documents should be attached hereto if required by the Owner:

- Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
- Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
- Contractor's Affidavit of Release of Liens (AIA Document G706A).

CONTRACTOR: **H. Gordon Myrick, Inc.**
(Name and address) **3207 D Avenue**
Gulfport, MS 39507

BY: _____

(Signature of authorized representative)

Michael Penny, Project Manager

(Printed name and title)

Subscribed and sworn to before me on this date: **9/7/10**

Notary Public: _____

My Commission Expires: **April 2, 2011**



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G706—1994

Minutes of September 16, 2010

Long Beach Port Commission

INSTRUCTION SHEET

FOR AIA DOCUMENT G706, CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS

A. GENERAL INFORMATION

1. Purpose

This document is intended for use when the Contractor is required to provide a sworn statement verifying that debts and claims have been settled, except for those listed by the Contractor under "EXCEPTIONS" in the document. G706 is typically executed as a condition of final payment.

2. Related Documents

This document may be used with most of the AIA's Owner-Contractor agreements and general conditions, such as A201 and its related family of documents. G706 also requires the attachment of several supporting documents, including G706A, Contractor's Affidavit of Release of Liens, and G707, Consent of Surety to Reduction in or Release of Retainage.

3. Use of Current Documents

Prior to using any AIA document, the user should consult the AIA, an AIA component chapter or a current AIA Documents List to determine the current edition of each document.

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B. CHANGES FROM THE PREVIOUS EDITION

A cross-reference to AIA Document A201 has been deleted to permit the use of G706 with other families of AIA documents, including construction management, interiors and design/build.

C. COMPLETING THE G706 FORM

GENERAL: The Owner-Contractor Agreement is the usual source of required information such as the contract date and the names and addresses of the Owner, Project and Contractor.

ARCHITECT'S PROJECT NO.: This information is typically supplied by the Architect and entered on the form by the Contractor.

CONTRACT FOR: This refers to the scope of the contract, such as "General Construction" or "Mechanical Work".

AFFIDAVIT: Indicate the state and county where the Affidavit is made. This is not necessarily the same location as the Project, but should be the location where the notary is authorized to administer sworn oaths. If there are any EXCEPTIONS to the statement, these should be listed in the space provided; otherwise enter as "None". It may be a stipulation of the Contract Documents that the Owner has the right to require the Contractor to furnish a bond to cover each exception listed on the Affidavit.

SUPPORTING DOCUMENTS: The AIA documents listed as attachments to the G706 form should be of the same (current) edition date as G706. The AIA does not publish a "Release or Waiver of Liens" for contractors or subcontractors because of the great diversity of releases or waivers permitted by various state mechanics lien laws. Forms for such purposes may be available from local contractors' associations or may be written with the assistance of legal counsel.

D. EXECUTION OF THE DOCUMENT

The Notary Public should administer a sworn oath to the Contractor referencing the written statements appearing on G706, and should duly sign and seal this document containing the Contractor's signature. G706 should be signed by the Contractor or the Contractor's authorized representative.

4/94

INSTRUCTION SHEET FOR AIA DOCUMENT G706 • CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS • 1994 EDITION • AIA® • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5292

G706—1994

*

*

- Commissioner Hansen made motion seconded by Commissioner Purchner and unanimously carried authorizing advertisement for construction bids, Harbor Bait Shop, pending FEMA funding approval;

*

*

- Commissioner Hansen made motion seconded by Commissioner Hill and unanimously carried authorizing advertisement for construction bids, Alternate

**Minutes of September 16, 2010
Long Beach Port Commission**

Project, Harbor Pier Revisions and Rock Jetty, pending FEMA funding approval and DMR/Corp permit approval;

* * *

- Commissioner Reed made motion seconded by Commissioner Hansen and unanimously carried authorizing advertisement, Requests for Qualifications, Engineering Services, BIG (Grant) Bulkhead/Pier Project, pending final obligation of funding; and to appoint a selection committee to review said qualifications for recommendation to the Port Commission, as follows: Commissioners Barbara Reed, Danny Hansen and Harbor Master Michael White;

* * *

- Commissioner Ehlers made motion seconded by Commissioner Purchner and unanimously carried authorizing two or more advertisements, Requests for Qualifications, Master Planning Services, Harbor Expansion Planning Project and/or Engineering Services, for new improvement projects associated with the CIAP Grant, pending final obligation for funding; and to appoint a selection committee to review said qualifications for recommendation to the Port Commission, as follows: Commission President Phil Kies, Commissioners Barbara Reed, Danny Hansen, and Harbor Master Michael White;

* * *

- Discussion was held regarding Tidelands funding, harbor dredging and the status of ramp upgrades, however, no formal action was required or taken at this time.

Commissioner Reed made motion seconded by Commissioner Marks and unanimously carried to spread the signed, amended and restated lease agreement by and among the Long Beach Port Commission and the City of Long Beach (Lessor), S. Pucheu Holdings, LLC (Assignee/Sub-Lessee), and DMF Properties, LLC, (Lessee), as follows:

Minutes of September 16, 2010

Long Beach Port Commission

AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (this "Lease") is made and entered into effective as of Sept 7, 2010 (the "Effective Date") by and among the **Long Beach Port Commission and the City of Long Beach** (hereinafter collectively referred to as "Lessor"); **S. Pucheu Holdings, LLC**, a Mississippi limited liability company (hereinafter referred to as "Assignor/Sub-Lessee"); and **DMF Properties, LLC**, a Mississippi limited liability company (hereinafter referred to as "Lessee").

WHEREAS, Assignor/Sub-Lessee is current owner tenant under an original Lease agreement being first entered on or about October 22, 1986, by and between Lessor and James E. Levens, III, Travis Lott and Ronnie Barker; and a sub-lease having been entered on March 31, 1987, by and between James E. Levens, III, Travis Lott and Ronnie Barker and Travron, Inc.; and a sub-lease having been entered on February 8, 2001, by and between Travron, Inc., and S. Pucheu, LLC; and a Lease Assignment, Release and Indemnification Agreement having been entered on June 5, 2007, by and among Lessor, Travron, Inc., S. Pucheu, LLC, and Assignor/Sub-Lessee, and recorded in Book _____ at Page _____; and

WHEREAS, the parties wish to amend and restate the prior lease for the purpose of convenience and clarity, and to modify certain provisions of said lease as contained herein; and

WHEREAS, contemporaneously herewith but by separate document, it is understood that Assignor/Sub-Lessee wishes to and has assigned all of its rights and responsibilities under the **AMENDED AND RESTATED LEASE AGREEMENT** to Lessee, and to thereafter enter into a sub-lease with the Lessee; it is now

FOR AND IN CONSIDERATION of the mutual covenants herein contained and for other good, lawful and valuable considerations given and received by each of the parties to be bound hereby, agreed between the parties as follows:

SECTION ONE DEMISE AND DESCRIPTION OF PREMISES

Section 1.1. Land and Building. Lessor hereby demises and leases to Lessee, and Lessee hereby takes from Lessor, that certain portion of land owned by Lessor, described fully by the survey and property description attached hereto as Exhibit "A" (hereinafter referred to as the "Leased Premises"). The Leased Premises consists of land area upon which a building is to be constructed as described herein.

Minutes of September 16, 2010

Long Beach Port Commission

The southern boundary of the Leased Premises shall be the mean high tide line wherever from time to time that line may be located.

The waterfront area adjoining the Leased Premises shall retain public use benefit and public access specifically for moorage for transient vessels and walkway adjacent to such waterfront moorage which is to be constructed with funds from the Boating Infrastructure Grant Program, as pursuant to a Grant Agreement between the U.S. Fish and Wildlife Service and the State of Mississippi, Department of Marine Resources dated _____, of 2009, Agreement Number &-____-____, a copy of which is kept on file at the office of the Service, 300 Westgate Center Drive, Hadley, MA 01035-9589 and at the offices of the City of Long Beach

SECTION TWO RENT AND TERM

Section 2.1. Rent. Lessee shall pay Lessor rent for the Leased Premises as follows:

2.1.1. Base Rent. Lessee shall pay to Lessor base rent of One Thousand Six Hundred Thirty Three and & no/100 Dollars (\$1,633.00) per month (the "Base Rent"), payable in advance on the first day of each month, which amount is calculated on the basis on \$0.80 per square foot per year for the number of square feet contained within in the survey area of the Leased Premises. The base rent shall be increased ten percent (10%) every five years during the term of the Lease; said increases shall take effect on Sept. 1, 2015; Sept. 1, 2020; Sept. 1, 2025; Sept. 1, 2030; Sept. 1, 2035; and Sept. 1, 2040.

2.1.2. Percentage Rent. In addition to the Base Rent, Lessee shall pay Lessor as additional percentage rent annually an amount equal to two percent (2%) of the annual gross sales of between \$2,000,000.00 and \$3,000,000.00 generated from any commercial operations located on the Leased Premises during the Term; three percent (3%) of the annual gross sales of between \$3,000,000.00 and \$4,000,000.00 generated from any commercial operations located on the Leased Premises during the Term, and an amount equal to four percent (4%) of the annual gross sales of over \$4,000,000 from any commercial operations located on the Leased Premises during the Term (collectively, the "Percentage Rent"). For the purpose of verifying the Percentage Rent, Lessee shall promptly provide to Lessor all sales tax returns of Lessee at the same time such sales tax returns are provided to the Mississippi State Tax Commission.

Lessee shall pay any Percentage Rent due to Lessor as a result of any commercial operations located on the Leased Premises during the Term on a quarterly basis, payable each calendar quarter at the same time such sales taxes and returns are provided to the Mississippi State Tax Commission in such month for monthly sales.

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2.1.3. Payments. All Rent shall be payable at Lessor's place of business or at such other place as Lessor may designate in writing.

Section 2.2 Term. This lease shall be for a term of thirty one (31) years from the effective date hereof, being the day of final approval by the Governing Authorities of the City of Long Beach according to its minutes.

Section 2.3 Other Items. It is the intention of Lessor and Lessee that the Rent herein specified shall be net to Lessor in each year during the Term of this Lease, that all costs, expenses, taxes charges and obligations of every kind relating to the Leased Premises, including, but not limited to the costs of maintaining and repairing the Leased Premises, which may arise or become due during the Term of this Lease shall be paid by Lessee, and that Lessor shall be indemnified by Lessee against such costs, taxes, expenses, charges and other obligations.

SECTION THREE WARRANTIES OF TITLE AND QUIET POSSESSION

Section 3.1. Title Lessee shall satisfy itself as to the state of the title of the Lessor's premises, and Lessor will not warrant title to the Leased Premises and will lease only such interest that it may have, if any.

Section 3.2. Tidelands. In the event any portion of the Leased Premises constitutes State Trust Lands and leased from the Mississippi Secretary of State or should In Lieu Payments be required to be paid to the Mississippi Secretary of State, all such payments shall be the sole responsibility of the Lessee, and shall not be considered as a set off or reduction in any amount due as Rent hereunder.

SECTION FOUR USES

Section 4.1 General. While it is contemplated that Lessee will use the leased premises for the purpose of operating a restaurant, including as an incidental part thereof a bar or lounge area, and for purposes related thereto, Lessee may use the property for a restaurant or retail sales of goods or materials or professional services.

Lessee shall not use the Leased Premises in such a manner as to violate any applicable law, rule, ordinance or regulation of any governmental body. It is not the intention of the parties that the Leased Premises be used in connection with a gaming establishment, and no actual gaming activities shall be conducted or permitted south of U.S. Highway 90.

Section 4.2 Uses Prohibited Lessee shall not use, or permit the Leased Premises, or any part thereof, to be used, for any purposes or purposes other than the purpose or purposes authorized under the terms hereof, or commit any act or acts which will cause a cancellation of any insurance policy covering the building located on the premises, or any part thereof, nor shall lessee sell, or permit to be kept, used, or sold, in or

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about the demises premises, any article which may be prohibited by the standard form of fire insurance policies. Lessee shall, at its sole costs, comply with all requirements, pertaining to the Leased Premises, of any insurance organization or company, necessary for the maintenance of insurance, as herein provided, covering any building and appurtenances at any time located on the Leased Premises.

SECTION FIVE WASTE AND NUISANCE PROHIBITED

Section 5.1 The Lessee agrees not to commit, permit or suffer to be committed any waste whatever on the Leased Premises, and that it will allow no nuisance to exist on the Leased Premises. Lessee will, when requested by the property authorities, abate all nuisances at its own expense.

SECTION SIX ENCUMBRANCE OF LESSEE'S LEASEHOLD INTEREST

Section 6.1. General. Lessee may encumber by mortgage, deed of trust or other proper instrument, its leasehold interest and estate in the Leased Premises, together with all buildings, fixtures and improvements placed by Lessee thereon as security for any indebtedness of Lessee incurred for the sole and exclusive purpose of providing or constructing improvements to or operations on the Leased Premises. No other debt of Lessee or any other person or entity shall be secured by mortgage, deed of trust, pledge, lien or otherwise against the Leased Premises except as first approved in writing by Lessor, and in no case shall the leasehold interest and estate in the Leased Premises, or any building, improvements or fixtures placed or located by Lessee thereon be pledged, lien or secured for any debt not incurred for the sole and exclusive purpose of construction of improvements to or operations on the Leased Premises. The execution of any such mortgage, or deed of trust, or other instrument, or the foreclosure thereof, or any sale thereunder, either by judicial proceedings or by virtue of any power reserved in such mortgage or deed of trust, or conveyance by Lessee to the holder of such indebtedness, or the exercise of any right, of power, or privilege reserved in the mortgage or deed of trust, shall not be held as a violation of any of the terms or conditions hereof provided the indebtedness owed by Lessee which is to be satisfied or reduced by any such mortgage, or deed of trust, or other instrument, or the foreclosure thereof, or any sale or the exercise of any right, of power, or privilege reserved thereunder was approved in advance by Lessor, and incurred and used by Lessor exclusively on the Leased Premises as provided above. However, such event shall be deemed as an assumption by the holder of such indebtedness personally of the obligations hereof. No such encumbrance, foreclosure, conveyance, or exercise of right shall relieve the Lessee from its liability hereunder. If Lessee shall encumber its leasehold interest or estate in the Leased Premises and if Lessee or the holder of the indebtedness secured by such encumbrance shall give notice to Lessor of the existence thereof and the address of such holder, then Lessor will mail or deliver to such holder, at such address, a duplicate copy of all notices in writing to which Lessor may, from time to time, give to or serve on Lessee under and pursuant to the terms and provisions hereof; such copies shall be mailed or delivered to such holder, at the same time such notices are given to or served on Lessee. Such holder may, at its option, at any

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time before the rights of Lessee shall be terminated as provided herein, pay any of the rents due hereunder, or do any other act or thing required of Lessee by the terms hereof, or do any act or thing that may be necessary and proper to be done in the observance of the covenants and conditions hereof, or to prevent the termination hereof; all payments so made, and all things done and performed by such holder shall have the same effect in force as though the same had been done and performed by Lessee, (e.g., Any transfer or assignment of the Lessee's interest herein to any security holder is not a default of this Lease and said transfer need not be consented to by Lessor for validity if such security interest was properly approved in advance as required herein above). Notwithstanding anything contained in this lease, no lien or encumbrance placed on the Leased Premises for whatever reason shall survive termination or cancellation of this Lease.

No such encumbrance, foreclosure, conveyance, or exercise of right shall relieve Lessee from its liability hereunder.

SECTION SEVEN SUBLETTING AND ASSIGNMENT

SECTION 7.1. Lessee may sublet or assign its leasehold interest in whole or in part provided that it first obtain Lessor's prior written consent, which will not be unreasonably delayed or withheld. Any such proposed subletting and assignment shall be made only upon such conditions as determined by Lessor. Any subletting, assignment or transfer pursuant to this Section shall not release Lessee of liability under this lease.

SECTION EIGHT NOTICES

Section 8.1. All notices, demand, or other writings in this lease provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States will return receipt requested and postage prepaid, and addressed as follows:

TO LESSOR:

LONG BEACH PORT COMMISSION
POST OFFICE BOX 929
LONG BEACH, MS 39560

WITH COPY TO:
JAMES C. SIMPSON, JR.
Wise, Carter, Child & Caraway, P. A.
2781 C. T. Switzer, Sr. Drive
Suite 307
Biloxi, Ms 39531

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TO LESSEE:

DMF Properties, LLC
David M. Fayard
700 Old Savannah Drive
Long Beach MS 39560

The address to which any notice, demand or other writing may be given or made or sent to any party as above provided may be changed by written notice given by such party as above provided.

SECTION NINE CONSTRUCTION, ALTERATIONS AND EQUIPMENT

Section 9.1 Approval of concept and design. Lessee shall, at its sole cost and expense, construct a building on the Leased Premises for operation of a restaurant on the subject premises, and also for any of the additional uses described in Section 4 above having a minimum total investment including the development of plans, specifications, surveys and construction of not less than \$500,000.00, and total area under roof of not less total of 3,000 square feet heated and cooled area.

All such construction shall be done in good workmanlike manner and shall be in compliance with all applicable laws, codes, ordinances, rules, regulations and orders of federal, state and local governmental and public bodies and agencies having jurisdiction over the performance of such construction work. Lessor shall cooperate with Lessee's efforts in obtaining all governmental consents, approvals and permits, provided all costs thereof shall be paid by Lessee.

Section 9.2 Plan Approval; Initial Construction. Prior to initial construction, final building plans and specifications shall be submitted to Lessor for approval prior to submission of same to the municipal building official or office with any application for a permit to begin construction. Lessee shall submit such final building plans and specifications for approval to Lessor within thirty (30) days from Lessor's approval of the rendering of the proposed building. Provided such plans and specifications are in substantial conformance with the drawings, renderings and/or plans furnished by Lessee as set forth in Section 4.1, such approval shall not be unreasonably withheld or delayed.

Section 9.3 Failure to Submit Plans, Commence Construction or Complete Construction. Lessee shall obtain a building permit from the City of Long Beach and commence actual construction of such building and permitted structure within sixty (60) days of final approval by Lessor of such plans and specifications. Lessee shall thereafter proceed with commercially reasonable diligence to complete such construction. This sixty (60) day commencement date is subject to any delay that may be caused due to the failure of permitting by any other governmental agency, State or Federal, which may be required prior to commencement of construction in accordance with the approved plans and specifications.

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Notwithstanding anything in this paragraph to the contrary, construction shall be completed and the facility operating not later than 365 days from the effective date. Failure to have such facility operating by said date shall be considered an act of default.

Section 9.4 Mechanics or Workman's Liens. Lessee shall (1) keep the Leased Premises at all times during the Term hereof free from mechanics' liens and other liens of like nature created or claimed by reason of transactions made by Lessee, and (2) at all times fully protect and indemnify Lessor against all such liens or claims which may ripen into such liens and all expenses arising from such liens or claims. If Lessee shall elect to contest any such claim or lien, it shall, within thirty (30) days after written notice of such claim or lien, furnish Lessor a bond of a responsible corporate surety, in the amount claimed, conditioned on the discharge of said claim or lien. If a final judgment establishing the validity of said lien or claim for any amount is entered, Lessee shall pay and satisfy same at once. As to the mechanics' liens or other liens of like nature created or claimed by reason of transactions made by Lessor, Lessor shall keep the Leased Premises free of same, indemnify Lessee, furnish Lessee with a bond and pay and satisfy valid liens, all in accordance with the same requirements as are imposed upon Lessee aforesaid.

SECTION TEN TAXES AND ASSESSMENTS

Section 10.1 Real Property Taxes. Lessee shall pay, prior to any delinquency, all real property taxes assessed and levied against the Leased Premises.

Section 10.2 Personal Property Taxes. Lessee shall pay, prior to delinquency, any and all personal property taxes levied against Lessee's leasehold improvements, fixtures, equipment, furniture and other personal property located upon the Premises.

Section 10.3 Contests. Lessee shall have the right to contest the validity or amount of any taxes, as permitted by law, and may delay payment of the real estate and/or personal property taxes pending the resolution of a contest made in good faith and diligently pursued to completion.

SECTION ELEVEN MAINTENANCE

Section 11.1 General. Lessee shall at all times during the Term of this Lease and at its own expense keep the Leased Premises, the air-conditioning and heating system, electrical systems and all other systems and fixtures and all equipment thereon used in connection with the Leased Premises in good order, condition and repair, and shall make all repairs thereto, ordinary and extraordinary, that may be required during the Term hereof, and return the Leased Premises at the end of the term with all of same in good working order. Lessee shall indemnify and save harmless Lessor against and from any loss, costs, damage and reasonable expenses arising out of or in connection with Lessee's use of the Leased Premises, or any part thereof.

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Section 11.2 Lessor's Obligation. Lessor shall have no obligation to maintain the building on the Leased Premises.

Section 11.3 Lessee's Obligation. Lessee shall, as its sole cost and expense and as required by this Lease, maintain, repair and replace the items comprising the building on the Leased Premises, including but not limited to, foundation, roof, structure, gutters and downspouts, exterior walls, interior walls and structural portions of the building to be constructed upon the Leased Premises, and all wiring, plumbing, sprinkler system, pipes, conduits and other utilities which service the building and all other systems and fixtures and all equipment thereon used in connection with the Leased Premises. Lessee shall deliver the Leased Premises to Lessor on the expiration or termination of this Lease in good repair and condition, reasonable wear and tear excepted and free and clear of any and all material liens or encumbrances created or claimed by reason of transactions made by Lessee.

Section 11.4 Repair and Maintenance. Lessee shall, as its own expense, make all repairs and replacements to all improvements constructed by Lessee on the Leased Premises which may be from time to time become necessary, including but not limited to repairs to the pipes, heating ventilation and air conditioning system, plumbing system, window glass, fixtures, and all appliances, appurtenances and equipment used by Lessee in connection with the occupancy of the Leased Premises. All such repairs and replacements shall be made promptly, as and when necessary. All repairs and replacements shall be of equal quality to the work and materials existing after the initial construction of such improvements. In the event of the failure of Lessee to make such repairs or replacements, Lessor may, but shall not be required to, make such repairs and replacements for Lessee's account, and the expense thereof shall constitute and be collectable as additional Rent; provided, however, Lessor must first give notice to Lessee to cure such default (i.e., make the repair) within a reasonable amount of time.

SECTION TWELVE DAMAGE OR DESTRUCTION OF IMPROVEMENTS

Section 12.1 Substantial Destruction. If the Leased Premises is substantially destroyed (50% or more of replacement cost) by fire or other casualty, or if said damage is to such extent that it reasonably appears rebuilding or repair cannot be completed within one hundred eighty (180) days of said casualty, Lessee shall have the right to either (a) repair and restore the Leased Premises to substantially the same or better condition as prior to such casualty, or (b) cancel this Lease effective as of the date of such casualty and return the Leased Premises to Lessor. Lessee shall give written notice of its election to Lessor within a reasonable time, not to exceed one hundred and eighty days (180) days of the date of such casualty. Should Lessee exercise its right to rebuild, this Lease shall remain in full force and effect and Lessee shall proceed with due diligence to repair and restore the Leased Premises to substantially the same or better condition as prior to such casualty. Lessee shall promptly commence repair and restoration of the building and structures on the Leased Premises to substantially the same or better condition as prior to such casualty and complete such repair or restoration within 365 days of the date of casualty, or as quickly as is commercially reasonable to do. In the event of substantial

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destruction as provided herein such insurance proceeds as may be payable due to such destruction shall be first paid to any secured lien holders holding liens for funds advanced and used exclusively for the construction of the improvements located on the Leased Premises, and only to the extent of such advances. After such payment to said secured lien holders the balance of insurance proceeds shall be paid in into an escrow account to be used only for repairs of the subject premises. If Lessee elects to repair and restore the Leased Premises to substantially the same or better condition as prior to such casualty, Lessee shall be entitled to draw funds directly for Lessee's construction costs of such repair or restoration up to the amount of same or the amount of insurance payment. Lessee shall be solely responsible for any shortfall in the insurance proceeds available to complete such repairs. Lessee shall be entitled to receive and retain any excess of such insurance proceeds available in the escrow account should it perform said repairs, and funds be remaining.

Section 12.2 Partial Destruction. In the event the Leased Premises should be damaged or destroyed by fire or other casualty, Lessee shall give written notice thereof to Lessor within a reasonable time, not to exceed seventy-two (72) hours. If the Leased Premises shall be damaged by fire or other casualty, but (1) not to such extent as to be substantially destroyed (50% or more of replacement cost) or (2) to such extent that rebuilding or repair can be completed within one hundred eighty (180) days of the casualty, Lessee shall proceed with reasonable diligence to rebuild and repair the Leased Premises to substantially the condition, or better, in which it existed prior to such casualty, subject, however, to any unusual delay in the issuance of any required building permits and other required governmental and third party approvals, that all infrastructure for required utilities remains available to the Leased Premises, and that all insurance that may be necessary and otherwise prudent to maintain is available on a commercially reasonable basis. If any required building permits and other required governmental and third party approvals cannot be obtained within said time or if all infrastructure for required utilities remains unavailable to the Leased Premises for such time, or if all insurance that may be necessary and otherwise prudent to maintain is un available on a commercially reasonable basis, such event or such casualty shall be considered to be Substantial Destruction.

SECTION THIRTEEN UTILITIES

Section 13.1. Lessee shall fully and promptly pay for all water, gas, heat, light, power, telephone service, and other public utilities of every kind furnished to the premises throughout the term hereof, and all other costs and expenses of every kind whatsoever of or in the connection with the use, operation, and maintenance of the premises and all activities conducted thereon, and any and all taxes of any kind assessed against the Leased Premises and any personal property located thereon and Lessor shall have no responsibility of any kind thereof.

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SECTION FOURTEEN ATTORNEYS' FEES

Section 14.1. If any action at law or in equity shall be brought to recover any rent under this lease, or for or on account of any breach of, or to enforce or interpret any of the covenants, terms, or conditions of this lease, or for the recovery of the possession of the Leased Premises, the prevailing party shall be entitled to recover from the other party as part of the prevailing party's costs reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment or decree rendered.

SECTION FIFTEEN INSURANCE AND INDEMNITY

Section 15.1 Indemnification. Lessor shall not be liable to Lessee or Lessee's employees, agents or visitors, or to any other person whosoever, for any injury to person or damage to property in or occurring upon the Leased Premises or of any other person entering the Leased Premises under express or implied invitation of Lessee, or caused by the Leased Premises becoming out of repair, or caused by leakage of gas, oil, water or steam or by electricity emanating from the Leased Premises, or due to any other cause whatsoever (except to the extent that any of the foregoing are due to Lessor's negligence or misconduct or breach of its obligations hereunder) and Lessee agrees to carry property damage and general liability insurance as set forth in Section 9.2 below for the purpose of saving Lessor harmless to the extent of such coverage.

Section 15.2. Property Damage Insurance. Throughout the Term of this Lease, Lessee shall maintain insurance coverage on the Premises, including fire, windstorm and flood insurance, naming Lessor as additional insured, in the full amount of the replacement value of the improvements, including building code requirements endorsement once such improvements are complete and appropriate builder's risk insurance during the period of construction of improvements. Such insurance value shall be increased (but never decreased) periodically to always reflect the fair market replacement value of Premises. In the event the rate of the insurance on the said Premises is increased for any reason, Lessee shall pay the increased cost of the insurance at the time the premium notice is presented to Lessee.

Lessee shall deliver to Lessor copies of the certificates of insurance evidencing the existence in force of the policies of insurance described in this Paragraph 9. All of the policies of insurance required to be maintained hereunder shall be issued by an insurer licensed to do business within the state in which the Leased Premises are located. Each certificate shall provide that the insurance shall not be canceled or materially amended unless thirty (30) days' prior written notice of cancellation or amendment is given to the other party. Failure to have Lessor included and named as a co insured on any such policy shall be considered an act of default.

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Section 15.3. General Liability Insurance. Lessee agrees to indemnify and save Lessor harmless from all claims for damages, to goods, merchandise, persons and other property in or upon the Leased Premises, and any platforms of Lessee, arising out of or occasioned by Lessee's use or occupancy, except such damages resultant from the negligence of Lessor, its agents, servants or employees, or caused by Lessor's failure to perform any of its obligations hereunder. Lessee shall, during the term hereof, carry a single limit policy of general liability insurance in an amount of not less than ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS for injury to persons and/or damage to property (combined single limit bodily injury and property damage), occurring in or upon the Leased Premises, insuring Lessor, Lessor's beneficiaries and agents and the holders of any notes secured by a first mortgage or trust deed on the Leased Premises. Such insurance may be carried under a blanket policy covering the Leased Premises as well as other locations in which Lessee or any of its affiliated or subsidiary corporations or other entities may be interested. Lessee will promptly furnish Lessor with a certificate of said coverage, and all renewals thereof.

Section 15.4. Additional Named Insured; Act of Default. All policies of insurance required hereby shall include Lessor as an additional named insured.

15.4.1 Failure to have Lessor included and named as an additional named insured on any such policy shall be considered an act of default.

15.4.2. Notwithstanding the provisions of Section 16 of this lease agreement, should such default continue for a period of ten days after notice of same by Lessor to Lessee, Lessor may but is under no obligation to purchase insurance coverage to protect Lessor's interests only in the Leased Premises and its improvements, in which case the cost of such insurance shall be considered as additional rent due immediately from Lessee.

15.4.3 This lease shall terminate upon the expiration of thirty days from the date of such Notice of Default should Lessee fail to correct such omission or exclusion and have Lessor added as an additional named insured under all such policies.

15.4.4 Should any loss occur at a time when Lessor is not included as an additional named insured under Lessee's insurance policy Lessor shall have and be entitled to an equitable lien on such insurance policy and any payments to be made under the terms of same for the loss.

Section 15.5. Hazardous Use. Lessee will not permit the Leased Premises to be used for any purpose which would render the insurance thereon void or the insurance risk materially more hazardous, it being understood and agreed that the use of the Leased Premises in the proper and ordinary conduct of Lessee's business for the purposes set forth above shall not be considered in violation of this Section.

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Section 15.6. Waiver of Subrogation. Recognizing that Lessor is a governmental subdivision of the State of Mississippi, and thus to the extent but only to the extent allowed under law, Lessor and Lessee hereby waive any rights each may have against the other on account of any loss or damage occasioned to Lessor and Lessee, as the case may be, their respective property, or to the Leased Premises or its contents, arising from any risk covered or required to be covered hereunder by fire and extended coverage insurance, but to the extent of payment or compensation by such coverage only; and Lessor and Lessee, each on behalf of their respective insurance companies insuring the foregoing against any such loss or damage, waive any right of subrogation that they may have against the other. Lessor and Lessee shall provide written notice to their respective insurers of the provisions of this waiver and release and have their insurance policies endorsed to prevent invalidation of insurance coverage by reason of this waiver and release. Should the insurer of either party require an additional premium or cost in consideration of inclusion of the endorsement, it will be the responsibility of the party benefitting there from to pay such additional costs and, if not paid, such benefitting party will lose the benefit of this Section.

Section 15.7. Indemnification for Host Liquor Liability. Lessee will defend, indemnify, save free and hold harmless the Lessor for any action or damages, including attorney's fees and costs, resulting from a claim relating to host liquor liability.

SECTION SIXTEEN DEFAULT

Section 16.1 Events of Default. In addition to any event identified elsewhere herein, the following events shall also be deemed to be events of default by Lessee under the Lease:

16.1.1 Lessee shall fail to pay any installment of the Rent and such failure shall continue for a period of ten (10) days after the due date of such installment.

16.1.2 Lessee shall fail to comply with any term, provision, or covenant of this Lease, other than the payment of Rent or insurance, and such failure shall continue for a period of thirty (30) days after Lessor's written notice thereof to Lessee.

16.1.3 Lessee shall file a petition under any section or chapter of the Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof; or Lessee shall be adjudged bankrupt or insolvent in proceedings filed against Lessee thereunder.

16.1.4 A receiver or trustee shall be appointed for all or substantially all of the assets of Lessee, provided, however, that no default shall occur under this Section 16.1.4 so long as Lessee continues to pay the Rent and is not otherwise in default under any other provision of this Lease).

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16.1.5 Should Lessee shall abandon any substantial portion of the Leased Premises and cease to pay the Rent. Assignment or subletting by Lessee shall be an act of default unless such assignment or subletting is first approved in writing by Lessor or unless otherwise permitted under this Lease under Section 15 hereof.

16.1.6 Lessee shall fail to have in effect or maintain insurance herein required on Leased Premises which includes Lessor as a named insured along with Lessee in which case the provisions of Article 9 shall apply.

Section 16.2 Remedies of Lessor. Except as otherwise provided herein, upon the occurrence of any act of default, Lessor shall provide written notice of such default to Lessee. In addition to any other remedies allowed hereunder or by law, and unless otherwise provided herein, Lessee shall have thirty days from the date of such notice to cure any default under the lease. Should Lessee fail to cure any default hereunder, Lessor shall have the option to pursue any one or more of the following remedies after giving written notice to Lessee of the event of default as required herein and after the passing of the appropriate time to cure such default as provided herein:

16.2.1 Terminate this Lease, in which event Lessee shall immediately surrender the Leased Premises to Lessor, and if Lessee fails so to do, Lessor may, without prejudice to any other remedy which it may have for possession or arrearage in Rent, enter upon and take possession of the Leased Premises and expel or remove Lessee and any other person who may be occupying said Leased Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor; and Lessee agrees to pay to Lessor on demand the amount of all loss and damage which Lessor may suffer by reason of such termination, whether through inability to re-let the Leased Premises on satisfactory terms or otherwise.

16.2.2 Enter upon and take possession of the Leased Premises and expel or remove Lessee and any other person who may be occupying the Leased Premises or any part thereof, by force if necessary; and Lessee agrees to pay to Lessor on demand any deficiency that may arise by reason of such re-letting.

16.2.3 Any Notice of Default provided to Lessee shall also be provided to any approved mortgage holder or other creditor who has an approved security interest pursuant to Article 15 herein. Any such approved creditor will have the right to cure the Lessee's default within the same time period allowed for Lessee to cure any item contained in of the Notice of Default.

Section 16.3 Operations of Lessee. It shall be considered an act of default if after the initial construction is complete and the restaurant to be located upon the Leased

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Premises opens, the restaurant or any replacement fails to operate for a period of 90 days consecutively, or for less than 180 days during any calendar year for any reason other than Substantial or Partial Destruction as described above. A notice of default shall consist of a written notice of the acts or omissions of lessee which constitutes the default and the action required by lessee to cure the default. The notice of default shall be mailed by United States mail, postage prepaid, return receipt requested, to Lessee's mailing address given in Section Eight herein.

SECTION SEVENTEEN EXERCISE OF LESSOR'S RIGHTS

Section 17.1 Lessee shall exercise any of its rights and remedies contained herein, or terminate this Lease Agreement for any reason whatsoever, except upon the following conditions:

- (1) Lessor has sent Lessee a notice of default in Section Fifteen herein and;
- (2) The necessary time period as allowed herein has elapsed, and;
- (3) Lessee has failed to cure the default within the said time period as allowed herein;
- (4) Provided, however, notwithstanding any provision contained herein to the contrary, in the event Lessee fails to pay the monthly rental as required herein in Section Two within fifteen (15) days after notice of default has been sent to Lessee as required in Section Fifteen, Lessee shall be deemed to be in default.

SECTION EIGHTEEN LESSOR'S RIGHT TO PERFORM

Section 18.1 In the event that lessee by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default hereunder, than Lessor may, but shall not be required to, do or perform or cause to be done or performed such act or thing (entering on the Leased Premises for such purposes, if Lessor shall so elect), and Lessor shall not be or be held liable or in any way responsible for any loss, inconvenience, annoyance, or damage resulting to lessee on account thereof, and lessee shall repay to Lessor on demand the entire expense thereof, including compensation to the agents and employees of Lessor. Any act or thing done by Lessor pursuant to the provisions of this section shall be a waiver of any such default by lessee.

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SECTION NINETEEN LESSEE'S OPTION TO TERMINATE

Section 19.1 Lessee shall have the right, by written notice to Lessor given at least fifty (50) days prior to, a) the expiration of the first five (5) year period of the term hereof, or , b) the expiration of any two (2) year period of the term hereof thereafter, to terminate this lease and surrender its leasehold interest hereunder to Lessor, effective on the expiration of such five (5) year or two (2) year period, and on such effective date lessee shall be relieved from all further liability hereunder, and shall deliver possession of the Leased Premises to Lessor.

SECTION TWENTY EFFECT OF EMINENT DOMAIN

Section 20.1.1 Effect of total condemnation. In the event the entire Leased Premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this lease shall terminate and expire as of the date of such taking, and lessee shall thereupon be released from any liability thereafter accruing hereunder.

Section 20.1.2 Effect of partial condemnation. In the event a portion of the Leased Premises shall be so appropriated or taken and the remainder of the property shall not be suitable for the use then being made of the property by lessee, or if the remainder of the property is not one undivided parcel of property, lessee shall have the right to terminate this lease as of the date of such taking on giving to Lessor written notice of such termination within sixty (60) days after Lessor has notified lessee in writing that the property has been so appropriated or taken. In the event of such partial taking and lessee does not so terminate this lease, then this lease shall continue in full force and effect as to the part not taken and the monthly installment of rent shall be reduced proportionately.

Section 20.1.3 Condemnation award. In the event of the termination of this lease by reason of the total or partial taking of the premises by eminent domain, then in any such proceedings Lessor and Lessee shall be free to make claim against the condemning or taking authority for the amount of any damage done to them respectively, as a result thereof.

In the event of a partial taking of the premises and this lease is not terminated then Lessee shall have the right to make claim against the condemning or taking authority for the amount of any damage to lessee as a result thereof.

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**SECTION TWENTY ONE
DISPOSITION OF IMPROVEMENTS ON TERMINATION OF LEASE**

Section 21.1 On termination of this lease for any cause, except upon total condemnation, the Leased Premises and all improvements thereon shall return to the sole and exclusive possession of the Lessor. Lessee shall remove all items of personal property not later than the termination date hereof, and shall return the Leased Premises in clean, habitable condition, with only normal wear and tear excepted.

**TWENTY TWO
PARTIES BOUND**

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns of all of the parties hereto and successive government authorities having control and authority over the Long Beach Harbor and all of the parties hereto shall be jointly and severally liable hereunder.

SECTION TWENTY THREE

Should Lessee fail to pay any amounts due hereunder when due after such amounts become ten (10) days delinquent, Lessor shall charge as late fees an additional one and one half percent (1.50%) as late charges of the outstanding balance due, commencing as of the date such amounts were originally due.

SECTION TWENTY FOUR

The captions appearing under the section number designations of this lease are for the convenience only and are not a part of this lease and do not in any way limit or amplify the terms and provisions of this lease.

IN WITNESS WHEREOF, the parties have executed this lease at:

LONG BEACH PORT COMMISSION

By: Phil Kies
Phil Kies, President
Date of Execution 9/9/10

CITY OF LONG BEACH

by: William Skellie, Jr.
William Skellie, Jr., Mayor
Date of Execution 9/9/10

DMF PROPERTIES, LLC, Lessee

By: David M. Farnsworth
Its: Duly Authorized Director/Officer

S. PUCHEU HOLDINGS, LLC, Assignor

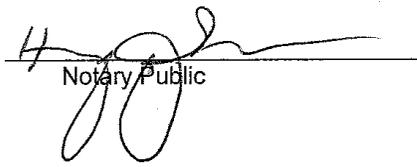
By: Joe Pucheu
Its: Duly Authorized Director/Officer

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STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY came and appeared before, the undersigned authority for said state and county, STEVE PUCHEU Managing Member of **S. Pucheu Holdings, LLC**, who acknowledged to me that he executed the foregoing instrument on the day and year therein stated, for and on behalf of said limited liability company, as its act and deed, after first being duly authorized so to do.

GIVEN under my hand and official seal of office on this the 8th day of September, 2010.



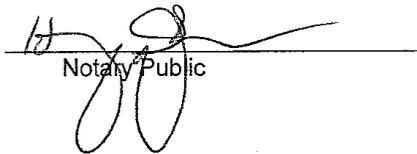
Notary Public



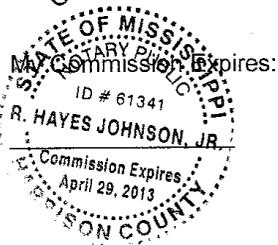
STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY came and appeared before, the undersigned authority for said state and county, DAVID FAYARD Managing Member of **DMF Properties, LLC**, who acknowledged to me that he executed the foregoing instrument on the day and year therein stated, for and on behalf of said limited liability company, as its act and deed, after first being duly authorized so to do.

GIVEN under my hand and official seal of office on this the 8th day of September, 2010.



Notary Public



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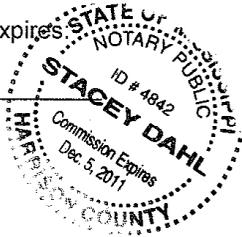
STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY came and appeared before me, the undersigned Notary, William J. Skellie, Jr., who after being duly sworn by me did state that he executed the above and foregoing document in his capacity as Mayor of the **City of Long Beach**, having been first duly authorized to do so by the Board of Aldermen of the City of Long Beach.

GIVEN under my hand and official seal of office on this the 9 day of
September, 2010.

Stacey Dahl
Notary Public

My Commission Expires _____



STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY came and appeared before me, the undersigned Notary, Phil Kies, President of the Long Beach Port Commission, who after being duly sworn by me did state that he executed the above and foregoing document in his capacity as President of the **Long Beach Port Commission**, having been first duly authorized to do so by the Board of Commissioners of the Long Beach Port Commission

GIVEN under my hand and official seal of office on this the 9 day of
September, 2010.

Stacey Dahl
Notary Public

My Commission Expires _____



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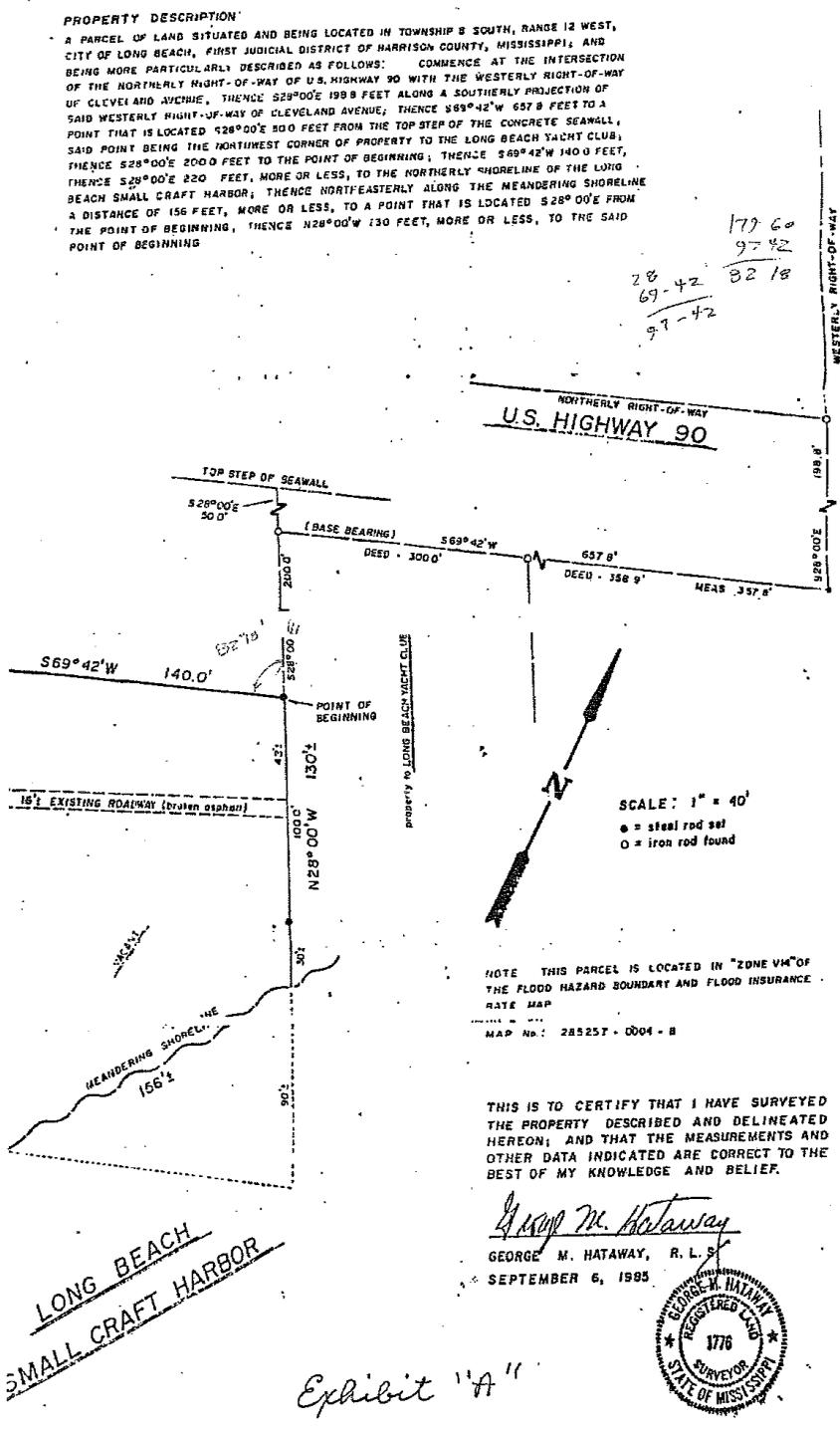


Exhibit "A"

The Port Attorney reported that the lease assignment, S. Pucheu Holdings, LLC, to DMF Properties, LLC, was not complete and the matter was taken under advisement for consideration and review at the next regular meeting, October 21, 2010.

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Harbor Master Michael White submitted the Harbor Guard Position Description to the commission, as follows:

City of Long Beach, Mississippi

Civil Service Commission

Harbor Guard

Position Description

September 8, 2010

Classification CSH-2	Reports to: Harbor Master	Date Approved: _____
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JOB SUMMARY: To patrol areas of the City of Long Beach Harbor to provide a safe and clean harbor, and assure security and prevent injury to persons or damage to property and vessels.

ESSENTIAL FUNCTIONS:

1. Makes scheduled tours of Harbor and adjoining east/west area by vehicle or walking to ensure security, and watches for conditions that could result in injury or loss due to fire, storms, theft, etc.
2. Pick up trash and debris in and around harbor and place in receptacles.
3. Ensure docks and piers are free of clutter and lines are stored properly out of the way.
4. Wash bird and Otter waste from piers and docks.
5. Inspects and cleans restrooms and shower as needed.
6. Collect and account for transient fees from transient slip rentals.
7. Operates retail store in Harbor, selling ice, snacks, drinks, ~~gas~~ and supplies.
8. Reports to supervisor or police authorities any unusual or suspicious conditions; reports to supervisor any incidence or actions which could result in injury or loss to the City or vessels docked in the Harbor.
9. Acts as a receptionist by answering telephone and greeting persons coming to the facility.
10. Performs other duties as determined necessary by the Harbor Master.

ADDITIONAL RESPONSIBILITIES:

1. Maintain a neat, clean working area and public facilities.
2. Perform minor repairs to docks and piers as needed, i.e. fix water leaks and replace or repair broken deck boards.
3. Keep detailed notes in log book on work performed as well as problems that need to be addressed.

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taken under advisement for further consideration and review at the next regular meeting, October 21, 2010. It was noted for the record that the commissioners will evaluate the duties and job description of the harbor guards and forward changes to Deputy City Clerk Stacey Dahl prior to the next regular meeting.

Upon clarification of an invoice to Gulf Publishing for legal advertisement, Commissioner Purchner made motion seconded by Commissioner Hill and unanimously carried to approve payment of invoices as listed in Docket of Claims number HBR090710 and HBR092110.

There came on for consideration the Harbormaster's Report, as follows:

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Harbormasters Report September 16, 2010

- Logo for Harbor
Yellow and Blue Logo inadvertently ordered, placed on boat can be replaced with alternate logo as needed
- New logo color in packet to approve or make changes
- Boat at Ocean Marine having lights installed
- Joe Moore Resignation: Effective October 1, 2010
- 25 applicants for Harbor Guard going through background
- Harbor Guard Job Description ready for review and changes
- Muhl at Coast Cycle for repairs. Repairs being made are choke cable replaced and ignition wiring checked. Transmition repair too costly to check. Only operates in low and reverse, not high. Recommend selling at upcoming police auction.
- Manson Construction is in the start up phase of dredging the Ship Channel. Would like to bring in 3 crew boats while dredging the channel. Project expected to last 6 months.
- USCG Boaters Safety Course: Spoke to USCG Ret Tom Hammack about holding a boaters safety course at the fire station for harbor employees as well as selected fire and police personnel. The course is free but materials cost is between \$20 and \$30 per person. He getting back with me on exact price.
- Current Slip Occupancy 70%, 166 rented out of 234 available.
- August Income Collected \$33,097.00
- Request 2 TV's in offices to monitor weather for employees and harbor guest.
- Discuss purchase of a Sanitary Napkin Dispenser and receptacle in ladies restroom

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2010
2009 TAX REPORT

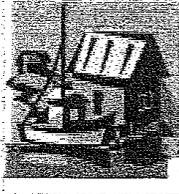
AUGUST

STORE INCOME \$ 6,786
TAX \$ 125
TOTAL \$ 1,911

SLIP RENT INCOME \$ 29,146
TAX \$ 2,040
TOTAL \$ 31,186

COMBINED INCOME \$ 30,932
COMBINED TAX \$ 2,165
COMBINED TOTAL \$ 33,097

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HARBOR BATCH REPORTS

DATE: 9-10-10
 CASH: 1,397.01 CHECKS: 28,558.43 TOTAL: 31,186.27
 BANK DRAFT: 1,230.83
 LAND LEASE: 3,118.49 TEMPS: 5,732.50

BATCH	CHECKS	CASH	TOTAL
6383	\$ 8,084.75	\$ 298.00	\$ 8,382.75
6420	\$ 10,452.00	\$ 771.15	\$ 11,223.15
6454	\$ 10,021.68	\$ 327.86	\$ 10,349.54
6429	—	—	1,230.83

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Upon discussion of the aforesaid Harbormaster's report, action was taken as follows:

- Commissioner Reed made motion seconded by Commissioner Hansen and unanimously carried to approve the harbor logo, using maroon as the outline color, authorizing the harbormaster to solicit quotes for shirts to be worn by the harbor employees. The harbormaster apprised the commission that the logo on the harbor boat is in colors of blue and yellow that will be changed to maroon when worn out;

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* * *

Commissioner Marks left the meeting to attend another meeting.

* * *

- Commissioner Ehlers made motion seconded by Commissioner Hill and unanimously carried to declare the harbor Muhl surplus for public auction;
- Commissioner Purchner made motion seconded by Commissioner Hansen and unanimously carried approving the three (3) Manson Construction crew boats in the harbor, for a period of approximately six (6) months, cautioning against wakes; the harbormaster will invoice Manson Construction on a monthly basis;
- Commissioner Kies made motion seconded by Commissioner Ehlers and unanimously carried approving the USCG Boaters Safety Course for harbor personnel, authorizing payment for fees and salaries while attending the course;
- The harbormaster was directed to obtain quotes for the purchase of (2) televisions at the harbormaster building for consideration at the next regular meeting, October 21, 2010;
- Commissioner Reed made motion seconded by Commissioner Ehlers and unanimously carried authorizing the purchase of a sanitary napkin dispenser and receptacle in the ladies restroom at the harbormaster building.
- Additional discussion was held regarding other items included in the harbormaster's report, none of which required any official action at this time.

The commission recognized Port Attorney Simpson for his report, as follows:

- The order to dismiss was entered in the matter of S. Pucheu Holdings, LLC, versus the City of Long Beach, et al;
- The lease submitted by the Secretary of State will be addressed at the next regular meeting, October 21, 2010. Attorney Simpson will provide copies to all of the commissioners;
- There came on for consideration the Blue Ridge Properties, LLC, lease agreement and it was determined that, according to the official Port Commission record, they have not submitted their formal building plan to the Port Commission nor have they applied for any permits and are in default as of July 15, 2010; Blue Ridge contends that deadline is October 15, 2010; After considerable discussion, Commissioner Purchner made motion seconded by Commissioner Reed and unanimously carried directing Port Attorney Simpson to forward a letter to Blue

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Ridge Properties, LLC, demanding that they submit final construction/building plans to Deputy City Clerk Stacey Dahl no later than October 15, 2010, for review by the commission at their regular meeting, October 21, 2010; or be found in default of their lease agreement.

There being no further business to come before the Commission at this time, Commissioner Purchner made motion seconded by Commissioner Ehlers and unanimously carried to adjourn until the next regular meeting in due course.

APPROVED:

Phil Kies, President

Date

ATTEST:

Stacey Dahl, Deputy City Clerk