

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

Be it remembered that a regular meeting of the Port Commission of the City of Long Beach, Mississippi, was begun and held at the City Hall, 201 Jeff Davis Avenue, in said City, on Thursday, November 20, 2014, at 5:00 o'clock p.m., that being the time, place, and date 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 Don Deschenes, Commissioners Roger Ladner, Barney Hill, Stan Snodgrass, John Casey, Susan Nicolais, Joseph Yott, Sr., Port Attorney James C. Simpson, Jr., Harbormaster Bill Angley, and Deputy City Clerk Stacey Dahl.

Absent the meeting was Port Commissioner Vernon Ehlers.

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

The meeting was called to order and it was the consensus of the commission to amend the agenda to include V. BUSINESS: 1. PROJECT UPDATES; RON ROBERTSON **F. APPROVE DESIGN/APPROVE ADVERTISING FOR CURBING AND PAVING.**

Commissioner Casey made motion seconded by Commissioner Deschenes and unanimously carried to approve minutes of the Port Commission, as follows:

- Regular Minutes dated October 16, 2014, as submitted.

It was the consensus of the commission to amend the agenda to take up the matter of Blue Ridge Properties, LLC prior to Project Updates by Ron Robertson; whereupon the following letter was ordered spread upon the minutes of this meeting in words and figures as follows:

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**



2510 14TH STREET, SUITE 1125 (39501)
P.O. DRAWER 160
GULFPORT, MISSISSIPPI 39502-0160
228-864-3094
FAX 228-864-0516
www.joneswalker.com

Frederick T. Hoff, Jr.
Direct Dial 228-822-8536
fhoff@joneswalker.com

November 11, 2014

By E-mail: jsc@wisecarter.com
By US Mail

James C. Simpson, Jr., Esq.
Long Beach Port Commission
P. O. Box 929
Long Beach, MS 39560

Re: *Blue Ridge Properties, LLC*
Restaurant location Long Beach Harbor

Dear Jim:

It is my understanding that Blue Ridge Properties, LLC is on the agenda for the Long Beach Port Commission meeting on November 20, 2014.

Blue Ridge Properties, LLC will request an amendment to Section 4.3 of its Amended and Restated Lease Agreement with the Port Commission dated February 11, 2010, to reflect an extension of the facility's operating date to April 1, 2015.

Blue Ridge Properties, LLC will also request Port Commission approval for the assignment of its Amended and Restated Lease Agreement with the Long Beach Port Commission dated February 11, 2010 to Welch Family Partnership Nine which is a real estate partnership based in Washington, D.C. whose principal is Kenneth J. Welch, a prominent real estate developer in Washington, D.C. I will appear at the meeting to represent Blue Ridge Properties, and a representative for Mr. Welch will also be at the meeting.

Mr. Levens believes that the investment by a prominent real estate developer in Long Beach, Mississippi is a positive development for the City of Long Beach, which may attract other investments in the area. Jimmy Levens will continue to manage and oversee the property locally on behalf of the landlord. If the Port Commission approves the assignment, he expects the assignment to occur no later than February, 2015.

JONES WALKER LLP

ALABAMA • ARIZONA • CALIFORNIA • DISTRICT OF COLUMBIA • FLORIDA • GEORGIA • LOUISIANA • MISSISSIPPI • NEW YORK • OHIO • TEXAS

{GP048736.1}

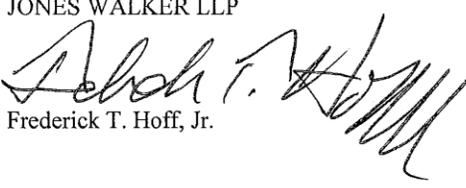
**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

James C. Simpson, Jr., Esq.
November 11, 2014
Page 2 of 2

If you have any questions concerning this matter, please contact me.

Sincerely,

JONES WALKER LLP


Frederick T. Hoff, Jr.

FTHms
Enclosures

cc: James E. Levens, III
Bruce Nourse
Kenneth J. Welch
Henry L. Laird, Esq.

{GP048736.1}

**

**

The commission recognized Port Attorney Simpson; who apprised them of all aspects regarding Blue Ridge Properties, LLC request to amend the completion and operation date to April 1, 2015, and the request for approval to assign the Amended and Restated Lease Agreement from Blue Ridge Properties, LLC to Welch Family Partnership Nine.

After considerable discussion, Commissioner Ladner made motion seconded by Commissioner Nicolais and unanimously carried to approve Amendment #6 to the Lease Agreement by and between the Long Beach Port Commission ("Lessee") and Blue Ridge Properties, LLC, ("Lessor") amending the

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

completion and operation date of the facility to April 1, 2015. Said **Fifth Amendment to Amended and Restated Lease Agreement**, as follows:

STATE OF MISSISSIPPI
COUNTY OF HARRISON
FIRST JUDICIAL DISTRICT

**SIXTH AMENDMENT TO AMENDED AND
RESTATED LEASE AGREEMENT**

THIS SIXTH AMENDMENT TO THE AMENDED AND RESTATED LEASE AGREEMENT (this "Amendment") is made and entered into by and between the LONG BEACH PORT COMMISSION (hereinafter referred to as "Lessor") and BLUE RIDGE PROPERTIES, LLC, a Mississippi limited liability company (hereinafter referred to as "Lessee"), and to be considered effective as of the date of approval hereof by the Governing Authorities of the City of Long Beach (the "Effective Date").

RECITALS:

WHEREAS, the parties have previously entered into, and five times amended, an AMENDED AND RESTATED LEASE AGREEMENT with an Effective date of February 11, 2010, such agreement being recorded March 1, 2010 as Instrument Number 2010 1735-D-J1 in the office of the Chancery Clerk of Harrison County, Mississippi, First Judicial District; and

WHEREAS, due to delays caused by weather and other matters, construction operations on Lessee's proposed building, it is recognized and acknowledged between the parties that an accommodation of construction schedules between the parties is deemed in the best interests of the project; and

WHEREAS, in order to accomplish same, the parties wish to again amend said AMENDED AND RESTATED LEASE AGREEMENT for such purpose, so it is therefore agreed as follows:

{GP049129.1}

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

WITNESSETH:

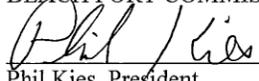
NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants herein contained and for other good, lawful and valuable consideration given and received by each of the parties to be bound hereby, the parties agree that Section 4.3 of the AMENDED AND RESTATED LEASE AGREEMENT as referenced above shall be amended to read as follows:

Section 4.3 Failure to Submit Plans, Commence Construction or Complete Construction. Lessee shall submit final building plans and specifications for approval to Lessor within ninety (90) days from Lessor's approval of the rendering of the proposed building. 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 and issuance of the building permit, and 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. Notwithstanding anything in this paragraph to the contrary, construction shall be completed and the facility operating not later than **April 1, 2015**. Failure to have such facility operating by **April 1, 2015** shall be considered an act of default.

All other provisions, terms and conditions of the **AMENDED AND RESTATED LEASE AGREEMENT** as previously amended shall remain unchanged, and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed as of the date hereof.

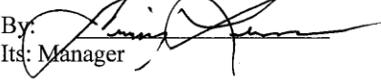
LONG BEACH PORT COMMISSION, Lessor

By: 
Phil Kies, President

{GP049129.1}

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

BLUE RIDGE PROPERTIES, LLC, Lessee

By: 
Its: Manager

AND NOW COMES WILLIAM SKELLIE, JR., Mayor of the City of Long Beach, Mississippi, who signs herein below acknowledging the approval of this Lease by the City of Long Beach, Mississippi Board of Aldermen.

Date of Execution: _____

WITNESS OR ATTEST:

CITY OF LONG BEACH

Rebecca Scruff, City Clerk

William Skellie, Jr., Mayor

STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said county and state, on this _____ day of _____, 2014, within my jurisdiction the within named William Skellie, Jr., personally known to me to be the Mayor, and Rebecca Scruff, personally known to me to be the City Clerk of the CITY OF LONG BEACH, MS, who acknowledged that they executed the above and foregoing SIXTH AMENDMENT TO THE AMENDED AND RESTATED LEASE AGREEMENT as the act and deed of said City, on the date and for the purposes therein stated, being first duly authorized to so do.

NOTARY PUBLIC

My Commission Expires:

{GP049129.1}

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said county and state, on this 21 day of Nov, 2014, within my jurisdiction the within named Phil Kies, personally known to me to be the President of the LONG BEACH PORT COMMISSION, who acknowledged that he executed the above and foregoing SIXTH AMENDMENT TO THE AMENDED AND RESTATED LEASE AGREEMENT as the act and deed of said Long Beach Port Commission, on the date and for the purposes therein stated, being first duly authorized to so do.

Stacey Dahl
NOTARY PUBLIC

My Commission Expires:



STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said county and state, on this 21 day of Nov, 2014, within my jurisdiction the within named Jimmy Levens, personally known to me to be the MANAGER/MEMBER of the BLUE RIDGE PROPERTIES, LLC., who acknowledged that he executed the above and foregoing SIXTH AMENDMENT TO THE AMENDED AND RESTATED LEASE AGREEMENT as the act and deed of said Long Beach Port Commission, on the date and for the purposes therein stated, being first duly authorized to so do.

Stacey Dahl
NOTARY PUBLIC

My Commission Expires:



{GP049129.1}

**

**

Upon continued discussion regarding the request by Blue Ridge Properties, LLC to assign its Amended and Restated Lease Agreement with the Port Commission to Welch Family Partnership Nine, Commissioner Nicolais made motion seconded by Commissioner Ladner and unanimously carried to consent to the aforesaid assignment.

Attorney Simpson had another commitment and left the meeting.

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

The commission recognized Mr. Ron Robertson, Project Manager, Broaddus and Associates, with project updates, as follows:



Long Beach Port Commission
Phil Kies, President

November 20, 2014

RE: Project Updates:

1. **CIAP- Harbor Master Plan.**

Contract was awarded for bulkhead restraint system improvements to Twin L Construction at \$294,518.95. Notice to Proceed issued to begin work December 1, 2014 and complete project by March 30, 2015.

Attached are plans and specifications for harbor landscaping. Request LBPC approve plans and specs and also approve advertising for bids.

AGR Engineering's joint (B.I.G and CIAP) design and bid package for improvements within the Long Beach Harbor is attached. Request LBPC approve the design and approve advertising for bids for the CIAP improvements.

USACE continues their 408 and permit review for the Harbor Master Plan.

2. **Bulkhead B.I.G. Project** AGR Engineering's design and bid package for B.I.G. improvements along the new north shore bulkhead is attached. Request LBPC approve design and approve advertising for bids for the B.I.G. improvements.
3. **Isaac Repairs.** Rip-Rap replacement and Dredging will begin as soon as permits are received. Heard no news on current permit status. No communication received on FEMA's position for un-obligating any more funding.
4. **Boating Infrastructure Grant** request for 2015 is currently being reviewed. A recent communication from DMR stated that Long Beach will not hear back on a decision until May 2015.

Please contact me at your convenience with any questions.

Best Regards,

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

NOTICE TO PROCEED

**EAST BULKHEAD TIE-BACK REPAIRS
AT THE LONG BEACH HARBOR**

To: Twin L Construction, Inc.
8292 Firetower Road
Pass Christian, MS 39571

Date: November 12, 2014
BMA Project #11-3300D-02

You are hereby notified to commence WORK in accordance with contract dated November 4, 2014 on or before December 1, 2014 and you are to complete the WORK within One hundred twenty (120) calendar days thereafter. The date of completion for all WORK is therefore March 30, 2015.



City of Long Beach


Title

ACCEPTANCE OF NOTICE:

Receipt of the above NOTICE TO PROCEED
is hereby acknowledged by:

Twin L Construction, Inc.

this, the 18 day of Nov, 2014.

By: 

Title: President

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

ADVERTISEMENT FOR BIDS

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

**Long Beach Smallcraft Harbor
2014 Improvements - B.I.G. & C.I.A.P.**

at the Office of City Clerk located at City Hall, 201 Jeff Davis Avenue, (P.O. Box 929) Long Beach, Mississippi, 39560, during normal office hours at any time prior to the designated bid date. Bids will then be publicly opened and read aloud at 10:00 A.M., December 23, 2014.

Bids are invited for the furnishing of materials, equipment, labor, and incidentals necessary to make various improvements to the facilities within the Harbor, including 2 steel structure pavilions, 1 pavilion on the west fishing pier, and other miscellaneous improvements above water and on land. The work is located within the Long Beach Harbor area.

Contract Documents are on file at the Office of the City Clerk, at City Hall, Long Beach, MS. The Documents may be obtained at the office of A. Garner Russell & Associates, Inc., Consulting Engineers, Hewes Avenue at 33rd Street, Gulfport, Mississippi 39507, upon payment of a \$100.00 non-refundable fee.

A certified check or bank draft payable to the order of City of Long Beach, Mississippi, negotiable U.S. Government bonds (at par value), or a satisfactory Bid Bond executed by the Bidder and an acceptable surety licensed under the laws of the State of Mississippi, in an amount equal to five percent (5%) of the total bid for "City of Long Beach, Long Beach Smallcraft Harbor – 2014 Improvements, B.I.G. & C.I.A.P.", shall be submitted with each bid.

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

The City of Long Beach, Mississippi, reserves the right to consider the following relevant factors in addition to the contract price in determining the lowest and best bid: bidder's skill and business judgment, his experience and his facilities for carrying out the contract, his previous conduct under other contracts and the quality of previous work, as well as his pecuniary ability, honesty, and integrity. The City also reserves the right to reject any or all bids or to waive any informalities in the bidding.

Awarding public contracts to non-resident Bidders will be on the same basis as the non-resident bidder's state awards contracts to Mississippi Contractors bidding under similar circumstances. In order to ensure that Mississippi's so-called Golden Rule is followed, state law requires a non-resident bidder to attach to his bid a copy of his resident state's current laws pertaining to such state's treatment of non-resident contractors.

Bids may be held by the City of Long Beach, Mississippi, for a period not to exceed ninety (90) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of Bidders, prior to awarding of the Contract.

Authorized by order of the Mayor and City Council, November 18, 2014.

City of Long Beach, Mississippi

By S/REBECCA SCHRUFF

Title CITY CLERK

- 1 -

**

**

It was noted that plans and specifications referred to in aforesaid report are available for review in the Clerk's office, 201 Jeff Davis Avenue, Long Beach, Mississippi.

**

**

After review and considerable discussion regarding the aforementioned updates, action was taken as follows:

- Commissioner Hill made motion seconded by Commissioner Nicolais and unanimously carried to approve items B. thru F. on the agenda as follows:

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

- B. Approve Plans/Specs for BIG and CIAP Improvements (BIG/CIAP funding)
- C. Approve Advertising for Bids BIG and CIAP (BIG/CIAP funding)
- D. Approve Plans/Specs for Harbor Landscaping (CIAP funding)
- E. Approve Advertising for Bids Harbor Landscaping (CIAP funding)
- F. Approve Design and Approve Advertising Curbing & Paving (CIAP funding)

The commission recognized Mr. JD Spencer, Owner of Spencer Web Solutions, whereupon a quote was submitted for website design to advertise the harbor, as follows:

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**



SpencerWeb Solutions

JD Spencer
2389 Carter Road
Biloxi, MS 39531
662.415.3635

QUOTE

DATE: NOVEMBER 4, 2014

EXPIRATION DATE January 1, 2015

TO Long Beach Harbor
720 S Cleveland Avenue
Long Beach, MS 39560
228-697-1547

JOB		SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
					20% upon acceptance	
QTY	IT EM #	DESCRIPTION	UNIT PRICE	DISCOUNT	LINE TOTAL	
1		Website Design & Launch, including Update Software/Search Engine Optimization	2,000.00		\$2,000.00	
1		1 Year Maintenance and Support	500.00		\$500.00	
					TOTAL LAUNCH & MAINTENANCE	\$2,500.00
					OPTIONAL MOBILE APP	\$100.00
					TOTAL	\$2,600.00

This is a quotation on the services named are subject to the conditions noted below:

- ❖ Items contained in this quotation may be accepted individually or in total. Remittance information will be provided at the time of acceptance.
- ❖ A deposit of 20% down payment of the total will be due and payable upon acceptance & approval of the quoted items.

To accept this quotation, sign here, date, and return: _____

Thank you for your business!

** **

After considerable discussion, Commissioner Nicolais made motion seconded by Commissioner Snodgrass and unanimously carried to approve the aforesaid proposal funded thru BIG.

Commissioner Nicolais made motion seconded by Commissioner Ladner and unanimously carried acknowledging the Tideland Grant Agreement Harbor Improvements Fiscal Year 2015, and ordered same spread upon the minutes of this meeting in words and figures as follows:

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**



FY2015-P501-06LB

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

**Tidelands Grant Agreement
City of Long Beach –Harbor Improvements
FISCAL YEAR 2015**

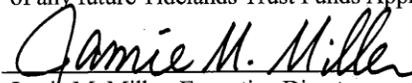
The **City of Long Beach** hereby agrees to expend funds as authorized by the 2015 Mississippi Legislature in H.B. 1485 and Mississippi Code Section 29-15-9.

The Mississippi Department of Marine Resources will disburse funds in the amount of **\$300,000** for this project, **City of Long Beach –Harbor Improvements**, upon (1) receipt of this signed document; (2) DMR possession of amended application with complete and final project designs and plans; and (3) release of funds from the Mississippi Department of Finance and Administration; and (4) availability of said funds. The Mississippi Department of Marine Resources shall make progress payments in installments based on work completed and material used in the performance of a tidelands project only after receiving written verification using Form TTF-3 and Form TTF-4 or Form TTF-5.

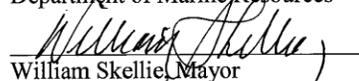
The **City of Long Beach** agrees to:

- 1) Expend monies for the project as designated by the Legislature H.B. 1485 for **City of Long Beach –Harbor Improvements** and Mississippi Code Section 29-15-9, and be subject to an audit by the State Auditor.
- 2) Provide the Department of Marine Resources with detailed reports beginning June. 30, 2015, and every six months thereafter for the duration of project, using the attached form TTF-4. Project reports will include:
 - Final project design and Budget
 - Benefits to the public and community
 - Visual presentation (photographs) of project
 - Narrative description of project
 - Description of Work Completed
 - Milestones for Completion
 - Funds expended (to include Tidelands and Matching Funds)
- 3) Provide the Department of Marine Resources with a Notification of Completion – TTF-5 (to be included in final payment request-Form TTF-3) to include a detailed final report of entire project, using the attached forms.
- 4) Erect a prominent, permanent sign to be displayed at all funded public access and construction related projects. The sign shall read “Funds for this project appropriated by the Mississippi Legislature, 2015 Tidelands Trust Fund, through the Secretary of State, Delbert Hosemann, and the Mississippi Department of Marine Resources.

On behalf of **City of Long Beach** I have read, understand, and agree to all terms listed above, and recognize that failure to comply with any portion of this Grant Agreement could jeopardize the receipt of any future Tidelands Trust Funds Appropriations.


Jamie M. Miller, Executive Director
Department of Marine Resources

11. 4. 2014
Date


William Skellie, Mayor
City of Long Beach

11/12/2014
Date

There came on for consideration the election of Port Commission Vice President to fill the unexpired term of former Commissioner Barbara Reed. Commissioner Yott nominated Commissioner Susan Nicolais. There being no further nominations for the position, it was declared:
Commissioner Susan Nicolais – Vice President.

Commissioner Nicolais made motion seconded by Commissioner Ladner and unanimously carried to approve payment of invoices, as follows:

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

- Docket #HBR102114, as submitted
- Docket #HBR110414, as submitted
- Docket #HBR111814, as submitted

Commissioner Casey made motion seconded by Commissioner Hill and unanimously carried acknowledging receipt of the October, 2014, Revenue/Expense Report.

The commission recognized Mr. Bill Angley for the Harbormaster's report, as follows:

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

Harbor Master Report

November 20, 2014

- Currently requesting quotes for a maintenance and hurricane contract for electrical pedestals
- WIFI Repeater:
- Three finger piers will need to be replaced soon due to age and wear third one needs minor repairs
- Sidewalk in front of harbor building and between pier one and two are now a safety concern due to sinking public works is working on solution to problem and will require pouring of concrete. Slabs have been removed to find rather large void under them and am awaiting engineers opinion on fix
- Bulkhead south of pier 2 cracking and getting worse for exfiltration may need a relief cut there as well as corner south of it to relieve the stress causing breakage
- Harrison County Sand Beach will be putting up dune fence south of comfort station to slow down the sand going into parking areas
- No wake signs: All are gone but one due to either weather or rot will replace with aluminum
- Elevator now requires annual safety inspections according to new law. I am currently looking for contractor to do this
- Boat trailer lot stripes: Working with county to restripe lot before next season or as part of CIAP
- Need a contract for chevron towing to pick up and replace fuel building
- Need a contract for bait shop trailer in event of storm
- Water faucets (change with brass)when funds are available
- 4 Live Aboard (Welch, Kilner, Smith, Haley)
- June 141 of 213
- July 147 of 213
- August 133 of 213
- September 129 of 213
- October 126 of 213

**

**

There was no action required or taken regarding the aforesaid report.

There was no Port Attorney's report due to his absence.

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

**PORT COMMISSION MINUTES
NOVEMBER 20, 2014**

APPROVED:

Phil Kies, President

Date

ATTEST:

Stacey Dahl, Deputy City Clerk