

**RECESSED REGULAR MEETING OF THE CITY COUNCIL  
TUESDAY, JULY 19, 2011, AT 6:00 P. M.  
CITY HALL, PASCAGOULA, MISSISSIPPI**

The City Council of the City of Pascagoula, Mississippi, met at City Hall in a recessed regular meeting on Tuesday, July 19, 2011, at 6:00 p.m. Mayor Maxwell called the meeting to order with the following officials present:

Mayor Robert H. Maxwell  
Councilman Joe Abston  
Councilman Frank Corder  
Councilman Jim Milstead  
Councilman Robert Stallworth, Sr.  
Councilman Harold Tillman, Jr.  
Councilman George L. Wolverton, Sr.

City Manager Joe Huffman  
City Attorney Eddie Williams  
Asst. City Clerk Brenda Reed  
City Clerk/Comptroller Robert J. Parker

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Mayor Maxwell welcomed everyone to the meeting. The invocation was given by Councilman Corder and was followed by the Pledge of Allegiance.

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Blaire Stewart, president of the Student Council at Pascagoula High School, requested permission from the Council for its members to do a service project in Pascagoula. Ms. Stewart advised they would like to repaint the Panther paw prints on Market Street, 14<sup>th</sup> Street, and Tucker Street.

Councilman Tillman made a motion to approve the request of the PHS Student Council to repaint the Panther paw prints on Market Street, 14<sup>th</sup> Street, and Tucker Street. The motion was seconded by Councilman Stallworth and received the following vote: Mayor Maxwell "AYE". Councilman Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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Samuel J. Burke, executive director of The St. Vincent DePaul Community Pharmacy, Inc., Biloxi, MS, addressed the Council with a grant request of \$5,000.00 to assist with their program to provide prescription medication to those residents in the community who are unable to afford it. He briefly discussed the plan and its benefits. The \$5,000.00 grant would be spent entirely on medication for the Pascagoula clients. They currently serve 19 residents from our City.

Councilman Corder thanked Mr. Burke for what he has done and requested that the City Manager keep the Council apprised of the needs for budget purposes.

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Brice Wiggins, member of the Excel by 5 Pascagoula Coalition, addressed the Council and announced the recertification status of the Pascagoula school district. Dr. Connie Jo Williams provided the Council with a list of accomplishments and a tee shirt. Mr. Wiggins stated that every three years they must be recertified, and this was accomplished as of July 1, 2011. Pascagoula is the largest Excel by 5 Community in the state of Mississippi. The next event at the Pascagoula Interactive Center will be held on Saturday, September 10, 2011. Mr. Wiggins presented Mayor Maxwell with an Excel by 5 framed certificate and a flag to fly outside City Hall. The Mayor thanked Mr. Wiggins and the Excel by 5 staff for the great job they are doing in the community.

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Minutes of the Planning Board meeting of July 13, 2011, are spread on the minutes as follows:

**REGULAR MEETING OF THE PASCAGOULA PLANNING BOARD  
WEDNESDAY, JULY 13, 2011 AT 6:00 PM  
CITY OF PASCAGOULA, MISSISSIPPI**

The Planning Board of the City of Pascagoula, Mississippi, met at City Hall in a Regular Meeting on Wednesday, July 13, 2011 at 6:00 P. M.

**The following official(s) were present:**

Stephen Parker (Vice-Chairman)  
Joseph Odom  
Mike Gilly  
Charles Busby  
Linda Tillman

**The following official(s) not present:**

Wesley Smith (Chairman)  
Etienne Melcher

**Officials present:**

Eddie Williams, City Attorney  
Brian Nelson, Director of Planning  
Karen Joplin, Mapping

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**A. PUBLIC HEARINGS:**

**1. Johnny and Deborah Horton**

**3407 Chicago Ave.** The property is zoned Single-Family Residential 6. The request is for a Special Use Permit to operate a home based online buying and selling business in an SFR 6 zone.

Mr. and Mrs. Horton were present to explain the application. Staff's recommendation was to "APPROVE". There being no objections, a motion was made by Mike Gilly to "APPROVE" the application. The motion was seconded by Charles Busby and the vote thereupon was as follows: Charles Busby "AYE", Joseph Odom "AYE", Linda Tillman "AYE", Stephen Parker "AYE", and Mike Gilly "AYE".

The application will go to the City Council with the recommendation to "**APPROVE**".

COUNCIL ACTION:

Councilman Stallworth made a motion to "APPROVE" the request of Johnny and Deborah Horton as recommended by the Planning Board. The motion was seconded by Councilman Wolverton and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

**2. Anchor Square Shopping Center**

**303 Delmas Ave.** The property is zoned Neighborhood Commercial. The request is for an 18sq. ft. variance of the allowed 30 sq. ft. to improve the sign visibility for Anchor Square.

Brain Nelson was present to explain the application. Staff's recommendation was to "APPROVE". There being no objections, a motion was made by Mike Gilly to "APPROVE" the application. The motion was seconded by Charles Busby and the vote thereupon was as follows: Charles Busby "AYE", Joseph Odom "AYE", Linda Tillman "AYE", Stephen Parker "AYE", and Mike Gilly "AYE".

The application will go to the City Council with the recommendation to "**APPROVE**".

COUNCIL ACTION:

Councilman Stallworth made a motion to "APPROVE" the request of Anchor Square Shopping Center as recommended by the Planning Board. The motion was seconded by Councilman Wolverton and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

**3. Preliminary Plat Plan for Riverfront**

The City presented a plan for creating developable portions of the Riverfront parcel. The plan is preliminary and will be used to facilitate development of the Riverfront area. The City stated that the plan conforms to the Unified Development Ordinance.

Staff's recommendation was to "APPROVE". There being no objections, a motion was made by Mike Gilly to "APPROVE" the application. The motion was seconded by Linda Tillman and the vote thereupon was as follows: Charles Busby "AYE", Joseph Odom "AYE", Linda Tillman "AYE", Stephen Parker "AYE", and Mike Gilly "AYE".

The application will go to the City Council with the recommendation to "**APPROVE**".

COUNCIL ACTION:

Councilman Stallworth made a motion to "APPROVE" the preliminary plat plan for the development of the Riverfront area as recommended by the Planning Board. The motion was seconded by Councilman Wolverton and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

**4. The City of Pascagoula Amended Redevelopment Plan and Resolution**

A Resolution recommending that the Tax Increment Financing Redevelopment Plan of 2002, the City of Pascagoula, Mississippi, as amended and restated August 2011, conforms to the general plan for Development of the City of Pascagoula as a whole.

Chris Gouras, of Gouras and Associates LLC, was present to discuss the resolution and need thereof. Simply stated, according to Mississippi State law, the Redevelopment Plan must agree with the Comprehensive Plan of 2011. This resolution ensures that compliance. Staff's recommendation was to "APPROVE". The following resolution was considered by the Planning Board:

**RESOLUTION RECOMMENDING THAT THE TAX INCREMENT FINANCING REDEVELOPMENT PLAN OF 2002, THE CITY OF PASCAGOULA, MISSISSIPPI, AS AMENDED AND RESTATED, AUGUST 2011, CONFORMS TO GENERAL PLAN FOR DEVELOPMENT OF THE CITY OF PASCAGOULA, MISSISSIPPI, AS A WHOLE.**

WHEREAS, the Planning Board (the "Board") hereby finds, determines and declares as follows:

1. The Board is the Planning Board for the City of Pascagoula, Mississippi (the "Municipality").
2. The Board is familiar with the City of Pascagoula 2010 Comprehensive Plan for the development of the Municipality as a whole and the Tax Increment Financing Redevelopment Plan of 2002, the City of Pascagoula, Mississippi, as Amended and Restated, August 2011 (the "Redevelopment Plan") relating to the future development of the Municipality.
3. The Board has reviewed the Redevelopment Plan for the City of Pascagoula, Mississippi forwarded to it by the City Council of the Municipality pertaining to the

redevelopment, revitalization and renovation of a portion of the Municipality (the “Redevelopment Area”).

4. The Redevelopment Plan, is appropriate, necessary and in the public interest for use in planning and improving the redevelopment project area.

NOW THEREFORE, BE IT RESOLVED by the Board, that a certified copy of this resolution shall be delivered to the Mayor and City Council of the Municipality as the written finding of the Board that the Redevelopment Plan conforms to the general plan for the development of the Municipality as a whole.

Charles Busby moved that the foregoing resolution be adopted as introduced and read, which motion was seconded by Joseph Odom, and upon being put to a vote, the results were as follows:

Etienne Melcher	voted: ABSENT
Linda Tillman	voted: <u>AYE</u>
Joseph Odom	voted: <u>AYE</u>
Stephen Parker	voted: <u>AYE</u>
Charles Busby	voted: <u>AYE</u>
Mike Gilly	voted: <u>AYE</u>
Wesley Smith	voted: ABSENT

The Resolution was then declared adopted on this, the 13th day of July, 2011.

(Mayor Maxwell left the meeting at 6:20 p.m.)

COUNCIL ACTION:

The Council then considered the following resolution for adoption:

**RESOLUTION RECOMMENDING THAT THE TAX INCREMENT FINANCING REDEVELOPMENT PLAN OF 2002, THE CITY OF PASCAGOULA, MISSISSIPPI, AS AMENDED AND RESTATED, AUGUST 2011, CONFORMS TO GENERAL PLAN FOR DEVELOPMENT OF THE CITY OF PASCAGOULA, MISSISSIPPI, AS A WHOLE.**

WHEREAS, the Planning Board (the “Board”) hereby finds, determines and declares as follows:

1. The Board is the Planning Board for the City of Pascagoula, Mississippi (the "Municipality").

2. The Board is familiar with the City of Pascagoula 2010 Comprehensive Plan for the development of the Municipality as a whole and the Tax Increment Financing

Redevelopment Plan of 2002, the City of Pascagoula, Mississippi, as Amended and Restated, August 2011 (the "Redevelopment Plan") relating to the future development of the Municipality.

3. The Board has reviewed the Redevelopment Plan for the City of Pascagoula, Mississippi forwarded to it by the City Council of the Municipality pertaining to the redevelopment, revitalization and renovation of a portion of the Municipality (the "Redevelopment Area").

4. The Redevelopment Plan, is appropriate, necessary and in the public interest for use in planning and improving the redevelopment project area.

NOW THEREFORE, BE IT RESOLVED by the Board, that a certified copy of this resolution shall be delivered to the Mayor and City Council of the Municipality as the written finding of the Board that the Redevelopment Plan conforms to the general plan for the development of the Municipality as a whole.

The above Resolution was introduced by Councilman Corder, seconded for adoption by Councilman Stallworth, and received the following vote: Mayor Maxwell "ABSENT". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". Mayor Pro Tem Abston then declared the Resolution adopted on the 19<sup>th</sup> day of July, 2011.

(Mayor Maxwell returned to the meeting at 6:24 p.m.)

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**The consent agenda was considered at this time.**

Councilman Abston requested that "Item I" regarding advertising the resources of the City through the NAACP 66<sup>th</sup> Annual State Convention program be removed from the consent agenda and considered separately. Councilman Abston led a discussion regarding negative public comments by Curley Clark, Jackson County NAACP President, regarding a shooting incident last week of a black male by a Pascagoula Police officer. Councilmen Abston, Tillman, and Corder felt Mr. Clark was out of line with his comments about our Police Department and did not feel they could support a \$150.00 half-page ad at this time due to the comments. Councilman Tillman stated we have professional officers and he felt that Mr. Clark should provide the City with a formal apology regarding his comments.

After discussion, Councilman Corder made a motion to deny the request to advertise the resources of the City of Pascagoula through the NAACP 66<sup>th</sup> Annual State Convention program. The motion was seconded by Councilman Tillman and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "NAY", Tillman "AYE", and Wolverton "AYE". (Denied 7-19-11)

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Councilman Corder led a discussion regarding “Item Y” concerning an agreement between Waste Management of MS, Inc. and the City of Pascagoula for solid waste transfer and disposal services. Steve Mitchell, Operations Manager, discussed the process the City used for the Request for Proposals and the negotiations that followed with Advanced Disposal and Waste Management of MS, Inc. The City Manager also commented on this item and concurred with the recommendation to use Waste Management of MS, Inc.

Councilman Milstead stated he would recommend requesting sealed bids in the future for large service projects. Mr. Mitchell commented that seeking requests for proposals on service contracts is a good method and you can normally negotiate the best deal. Councilman Corder suggested that a Council member be a part of the Selection Committee in the future to offer input on the decision that would be in the best interest of the City of Pascagoula.

The agreement is spread on the minutes as follows:

**AGREEMENT BETWEEN WASTE MANAGEMENT OF MISSISSIPPI, INC.  
AND THE CITY OF PASCAGOULA, MISSISSIPPI  
FOR SOLID WASTE TRANSFER AND DISPOSAL SERVICES**

**THIS AGREEMENT** entered into as of the date herein below between Waste Management of Mississippi, Inc. ("Contractor") and the City of Pascagoula, Mississippi ("City").

**WHEREAS**, the City owns an Energy Recovery Facility ("ERF") in Moss Point, Mississippi; and

**WHEREAS**, it is the City's desire to transport non-hazardous solid waste from said facility to a lawfully permitted landfill for disposal; and

**WHEREAS**, Contractor has proper equipment to transport non-hazardous solid waste from ERF to a lawfully permitted landfill for disposal in accordance with solid waste regulations; and

**WHEREAS**, Contractor has a licensed disposal facility, Pecan Grove Sanitary Landfill, located in Pass Christian with solid waste permit number SW02401A0400 (the “Landfill”); and

**WHEREAS**, Contractor has offered to haul and dispose of all solid waste received at the ERF to said landfill;

**NOW, THEREFORE**, the City and Contractor covenant and agree as follows:

1. Contractor agrees to maintain in good standing the required government permits and authorizations for the landfill during the term of this Agreement.

2. Contractor agrees to, in a clean and efficient manner, haul and lawfully dispose of all non-hazardous solid waste received at the ERF to the Landfill for the term of this Agreement which shall commence at midnight on July 31, 2011, and terminate at midnight on July 31, 2017.

3. The City will pay to Contractor the sum of \$24.55 per ton multiplied by the tons delivered to the ERF during the preceding month, for hauling and disposing of waste in the Landfill, which payment shall be due within 45 days of the date of the invoice for the previous month's service. Contractor further agrees to make this rate available to the City effective June 19, 2011.

4. On August 1, 2012, and each August 1 thereafter during the term of the Agreement, the monthly sum due shall be adjusted either upward or down to reflect changes in the cost of doing business. This shall be measured by fluctuations in the Consumer Price Index (CPI) All Items "South" published by the U.S. Department of Labor, Bureau of Labor Statistics. The CPI adjustment shall not exceed four percent (4%) annually. Contractor agrees to deliver to ERF a minimum of 600 tons per month, averaged on an annual basis. In the case of a shortfall, the Contractor agrees to pay the City at the rate of \$10.76 per ton for each ton not delivered under the annual guarantee of 7200 tons.

5. Contractor agrees to provide three (3) tandem axle tractors and ten (10) 53 foot walking floor open top trailers. When requested in advance by the City, additional trailers will be provided on an as needed basis. Yard equipment shall consist of two yard tractors and one spotter

truck. Contractor shall provide one lead operator and two spotters on site.

6. At the beginning of each contract year during the term of this Agreement, beginning August 1, 2012, Contractor shall donate Ten Thousand and No/100 Dollars (\$10,000.00) to the City to be used for environmental related purposes or related benefits to the citizens of Pascagoula..

7. (a) If the County, State or Federal government causes the closing of the Landfill, this Agreement shall stand terminated with no further liability on either party except for any monthly or part of a monthly payment which might be then due.

(b) the State or Federal government causes the closing of the ERF, or the City elects to do so, the City shall have the option to terminate this agreement by giving sixty days written notice to Contractor of its intention to do so. Contractor shall be required to use its best efforts to perform its obligations under its contract at all times. However it is understood that Contractor's performance of its obligation under its agreement could be impossible for causes beyond the control of Contractor, for example, acts of God, acts of war, riot, flood or sabotage and similar events. For such causes beyond Contractor's control aforesaid, it is agreed that if absolutely necessary because of such causes, Contractor will be relieved of performing its obligations to the extent required; provided however, that in the event Contractor invokes this provision to excuse non-performance, the City may have the services performed and Contractor agrees to reimburse the City the full cost and expense so incurred by the City in having those services performed by its own personnel or contract with others to perform those services. In the event of the non-performance by Contractor continues for a period in excess of seven calendar (7) days, in addition to the right of reimbursement as aforesaid, the City may, at its option, terminate Contractor's right to perform further under the Contract and also terminate the contract; but in that event, Contractor's obligation to reimburse the City for the cost incurred by the City shall be limited to a period of thirty (30) days after that City terminates this contract.

(c) To the extent that the City does not have the services performed and therefore incurs no cost, then the compensation to Contractor under this Agreement shall be reduced in proportion to the non-performance of the services by Contractor. Contractor shall only be entitled to a reduced amount of compensation based on services rendered. Compensation due Contractor under the Agreement shall be reduced in proportion to the non-performance of services by Contractor.

8. The City agrees that waste to be hauled and disposed of by Contractor shall not contain hazardous waste. Hazardous waste shall mean such waste as is from time to time so designated by the Federal Environmental Protection Agency or the State of Mississippi. Title to all hazardous waste shall at all times remain vested in the City whether or not unloaded by Contractor.

9. This Agreement or the payment thereunder may not be assigned by Contractor unless consented to by the City, which consent shall not be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the parties named herein and their respective successors and permitted assigns.

10. Contractor agrees to comply with all applicable requirements of EPA Subtitle D regulations relative to the disposal of the waste. Contractor shall be responsible for any testing of the material required at its landfill by the Department of Environmental Quality. The City shall remain responsible for any testing required at the ERF. The City shall comply with all applicable federal, state, and local statutes and ordinances with respect to the ownership and operation of the ERF.

#### 11. Insurance Requirements

a. Before starting, during and until completion of the term hereof, Contractor shall procure and maintain insurance of the types and to the limits specified in paragraphs (b) (i) through (iv) inclusive below, provided however, that Contractor may provide self-insurance coverage to the extent approved by the State Department of Insurance upon providing written evidence of approval of such self-insurance coverage. Contractor shall require each of its Subcontractors, if any, to procure and maintain, until the completion of that Subcontractor's work, insurance of the types and to the limits specified in paragraphs (b) (i) through (iv) inclusive

below. It shall be the responsibility of Contractor to insure that all its Subcontractors comply with all of the insurance requirements contained herein relating to such Subcontractors.

b. The amounts and types of insurance shall conform to the following minimum requirements:

i. Worker's Compensation

Coverage to apply for all employees in compliance with the applicable state and federal laws. In addition, the policy must include the following:

- a. Employer's Liability with a limit of \$1,000,000 each accident.
- b. Notice of Cancellation and/or Restriction — the policy must be endorsed to provide the owner with thirty (30) day's notice of cancellation and/or restriction.

ii. Comprehensive General Liability

Coverage must include:

- a. Minimum limits of \$2,000,000 per occurrence and \$5,000,000 aggregate combined single and limit for Bodily Injury Liability and property Damage Liability.
- b. Premises and/or Operations.
- c. Independent Contractors.
- d. Products and/or Completed Operations.
- e. Broad Form Property Damage including Completed Operations.
- f. Contractual Coverage applicable to this specific contract including any hold harmless and/or indemnification agreement.
- g. Additional Insured - City is to be specifically included as an additional insured.

- h. Notice of Cancellation and/or Restriction - the policy must be endorsed to provide City with thirty (30) days notice of cancellation and/or restriction.
- iii. Comprehensive Automobile Liability

Coverage must include:

- a. Minimum limit of \$1,000,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.
- b. Owned Vehicles.
- c. Hired and Non-Owned Vehicles.
- d. Employee Non-Ownership.
- e. Notice of Cancellation and/or Restriction - the policy must be endorsed to provide City with thirty (30) days notice of cancellation and/or restriction.
- iv. Certificates of Insurance and Copies of Policies

Certificates of Insurance in triplicate evidencing the insurance coverage specified in the previous paragraphs (i) to (iii) inclusive, and certified copies of the policy required by this paragraph (iv) shall be filed with City before operations are begun. The required certificates of insurance not only shall name the types of policies provided, but also shall refer specifically to this Agreement and sections and the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this Agreement.

If the initial insurance expires prior to the end of the term of this Agreement, renewal certificates of insurance and required copies of policies shall be furnished thirty (30) days prior the date of their expiration.

The following cancellation clause must appear on the Certificates of Insurance. The present Cancellation Clause appearing on the Certificate must be stricken out and initialed by the

Agent of the Insurer:

Cancellation - Should any of the above described policies be cancelled before the stated expiration date thereof, insurer will not cancel same until at least thirty (30) days prior written notice (by certified mail) has been given to City, whose address is Post Office Drawer 908, Pascagoula, Mississippi 39568-0908.

**NOTICES**

Where notices are required by the contract, such notice shall be given in writing, registered or certified mail, return receipt requested and directed to:

THE CITY: City of Pascagoula  
P.O. Drawer 908  
Pascagoula, MS 39568-0908  
Attention: City Manager

With one copy to: City of Pascagoula  
P.O. Drawer 908  
Pascagoula, MS 39568-0908  
Attention: Public Works Director

CONTRACTOR: Waste Management of Mississippi  
10242 Canal Road  
Gulfport, MS. 39503  
Attention: Operations Manager

With one copy to: Waste Management – Southern Group Legal  
1000 Parkwood Circle, Suite 700  
Atlanta, GA 30339  
Attention: Group General Counsel

IN WITNESS THEREOF, this agreement has been executed in duplicate original on day and in the year first above mentioned. The execution by City is made pursuant to authority granted by action of the Council of the City of Pascagoula, Mississippi, entered at the meeting of said council held on the \_\_\_\_\_.

**WASTE MANAGEMENT OF  
MISSISSIPPI, INC.**

**CITY OF PASCAGOULA**

**BY:**  
\_\_\_\_\_

**BY:** \_\_\_\_\_

**ATTEST:**  
\_\_\_\_\_

**ATTEST:**  
\_\_\_\_\_

Councilman Stallworth made a motion to approve Waste Management of MS, Inc. for the solid waste transfer and disposal services as recommended and authorize the City Manager to execute the related documents. The motion was seconded by Councilman Tillman and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE".  
(Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

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The next item for consideration was the minutes of the regular Council meeting of July 5, 2011, as recommended by Brenda Reed, Asst. City Clerk.

Councilman Stallworth made a motion to adopt and approve the minutes of the regular Council meeting of July 5, 2011, as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE".  
(Approved 7-19-11)

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Minutes of the Historic Preservation Commission meeting of June 22, 2011, were acknowledged by the Council.

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Minutes of the Recreation Commission meeting of July 6, 2011, were acknowledged by the Council.

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The next item for consideration was a banner request for the grand opening of Anchor Square as recommended by Rebecca Davis, Main Street Director. The banner would be placed at the welcome sign on the corner of Highway 90 and Pascagoula Street from July 25 through August 5, 2011, which is two weeks prior to the grand opening.

Councilman Stallworth made a motion to approve the banner request for Anchor Square to be hung two weeks prior to the grand opening as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. (Approved 7-19-11)

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The next item for consideration was an updated fee schedule for the Parks and Recreation Department effective October 1, 2011, as recommended by Darcie Crew, Parks & Recreation Director. The fee schedule is spread on the minutes as follows:

PASCAGOULA PARKS & RECREATION DEPARTMENT

FEE SCHEDULE

ACTIVITY	PASCAGOULA RESIDENT	NON- RESIDENT
Youth Basketball	\$60.00	\$70.00
Youth Football	\$80.00	\$90.00
Youth Cheerleading	\$105.00	\$115.00
Summer Day Camp	\$80.00 per week	\$90.00 per week
After School Program	\$40.00 per week	n/a
Registration Fee	\$5.00	\$5.00
Aerobics	\$37.00 per session	\$37.00 per session
Senior Membership	Free	\$50.00 per year
Latin Dance/Pottery	Instructor costs	Instructor costs
Instructional Classes	Instructor costs	Instructor costs
Swimming Lessons	\$25.00 per class	\$30.00 per class
Pool Admission-Child	\$1.00 per day	\$1.25 per day
Pool Admission-Adult	\$1.50 per day	\$2.00 per day
Pool Admission-Group	\$.75 per person	\$1.00 per person
Pool Admission-Boys & Girls Club	\$1.00 per person	\$1.00 per person
Pascagoula Rec Center Admission	\$1.00 per person	\$1.00 per person
Nature Center Admission	\$2 adults \$1 children/groups	\$2 adults \$1 children/groups
Pavilion Rental	\$30.00 per day	\$45.00 per day
Field Rental	Per hour rates per agreement	Per hour rates per agreement

The above rates are for existing programs. Any additional programs offered will need to be added to this listing on an as needed basis.

If you have any questions please feel free to call the Pascagoula Parks & Recreation Department at 228-938-2356.

(Effective October 1, 2011)

Councilman Stallworth made a motion to approve the updated fee schedule for the Parks and Recreation Department effective October 1, 2011, as recommended. The motion as seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverson “AYE”. (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.79 in the General Fund for the Fire Department as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.79  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>General Fund</u></b>	-	-	-
- <b><u>Expenditures:</u></b>	-		-
- <b><u>Fire Fighting</u></b>			
- <b><u>Supplies:</u></b>			
- <b>Gas &amp; Oil</b>	17,000	4,800	21,800
- <b><u>Personal Services:</u></b>			
- <b>Differential Pay</b>	120,400	-4,800	115,600
- <b>Total Expenditures</b>	<b>137,400</b>	-	<b>137,400</b>
<b>Net Change in Fund Balance</b>		-	

<b>To amend budget in order to reallocate budget provisions as needed.</b>			
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Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.80 in the General Fund for the Street Department as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.80  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>General Fund</u></b>	-	-	-
<b><u>Expenditures:</u></b>	-		-
<b><u>Streets</u></b>			
<b><u>Supplies:</u></b>			
<b>Gas &amp; Oil</b>	45,000	2,800	47,800
<b>Construction Materials</b>	150,000	-2,800	147,200
<b>Total Expenditures</b>	195,000	-	195,000
<b>Net Change in Fund Balance</b>		-	
<b>To amend budget in order to reallocate budget provisions as needed.</b>			

Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.81 in the General Fund for the Property Maintenance Department as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.81  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>General Fund</u></b>	-	-	-
- <b><u>Expenditures:</u></b>	-		-
- <b><u>Property Maintenance</u></b>			
- <b><u>Supplies:</u></b>			
- <b>Gas &amp; Oil</b>	<b>4,000</b>	<b>900</b>	<b>4,900</b>
- <b>Building Materials</b>	<b>18,000</b>	<b>-900</b>	<b>17,100</b>
-			
- <b>Total Expenditures</b>	<b>22,000</b>	-	<b>22,000</b>
<b>Net Change in Fund Balance</b>		-	
<b>To amend budget in order to reallocate budget provisions as needed.</b>			

Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.82 in the General Fund for the Beautification Department as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.82  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>General Fund</u></b>	-	-	-
- <b><u>Expenditures:</u></b>	-		-
- <b><u>Beautification</u></b>			
- <b><u>Supplies:</u></b>			
- <b>Gas &amp; Oil</b>	<b>10,000</b>	<b>3,400</b>	<b>13,400</b>
- <b><u>Capital Outlay:</u></b>			
- <b>Mobile Equipment</b>	<b>27,000</b>	<b>-3,400</b>	<b>23,600</b>
- <b>Total Expenditures</b>	<b>37,000</b>	<b>-</b>	<b>37,000</b>
<b>Net Change in Fund Balance</b>		<b>-</b>	
<b>To amend budget in order to reallocate budget provisions as needed.</b>			

Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.83 in the General Fund for the Administration Department as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.83  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>Utility Fund</u></b>	-	-	-
<b><u>Expenditures:</u></b>	-		-
- <b><u>Utility Administration</u></b>			-
- <b><u>Supplies:</u></b>			-
- <b>Gas &amp; Oil</b>	1,600	400	2,000
- <b><u>Personal Services:</u></b>			
- <b>Retirement</b>	30,519	-400	30,119
-			
-			
<b>Total Expenditures</b>	<b>32,119</b>	-	<b>32,119</b>
<b>Net Change in Fund Balance</b>		-	
<b>To amend budget in order to reallocate budget provisions as needed.</b>			

Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.84 in the Utility Fund for the Metering Department as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.84  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>Utility Fund</u></b>	-	-	-
- <b><u>Expenditures:</u></b>	-		-
- <b><u>Metering Services</u></b>			
- <b><u>Supplies:</u></b>			
- <b>Gas &amp; Oil</b>	6,500	2,400	8,900
-			
- <b><u>Utility Accounting</u></b>			
- <b><u>Personal Services:</u></b>			
- <b>Merit Adjustment</b>	6,760	-2,400	4,360
-			
- <b>Total Expenditures</b>	13,260	-	13,260
-			
- <b>Net Change in Fund Balance</b>		-	
-			
- <b>To amend budget in order to reallocate budget provisions as needed.</b>			

Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.85 in the Utility Fund for the Sewer Operations and Maintenance Department as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.85  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>Utility Fund</u></b>	-	-	-
- <b><u>Expenditures:</u></b>	-		-
- <b><u>Sewer Operation &amp; Maint.</u></b>			
- <b><u>Supplies:</u></b>			
- <b>Gas &amp; Oil</b>	20,000	2,900	22,900
- <b><u>Capital Outlay:</u></b>			
- <b>Sewer System Impr.</b>	300,000	-2,900	297,100
-			
- <b>Total Expenditures</b>	<b>320,000</b>	-	<b>320,000</b>
<b>Net Change in Fund Balance</b>		-	
<b>To amend budget in order to reallocate budget provisions as needed.</b>			

Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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The next item to be considered was Budget Amendment #11.86 in the Solid Waste Management Fund as recommended by Bobby Parker, City Clerk/Comptroller. The budget amendment is spread on the minutes as follows:

**City of Pascagoula  
Budget Amendment # 11.86  
July 19, 2011**

	<u>Current Budget</u>	<u>Budget Amendment</u>	<u>Amended Budget</u>
<b><u>Solid Waste Mgmt. Fund</u></b>	-	-	-
- <b><u>Expenditures:</u></b>	-		-
- <b><u>Solid Waste Management</u></b>			
- <b><u>Supplies:</u></b>			
- <b>Gas &amp; Oil</b>	<b>6,000</b>	<b>1,200</b>	<b>7,200</b>
- <b><u>Other Services &amp; Charges:</u></b>			
- <b>Equipment Maint. Services</b>	<b>12,000</b>	<b>-1,200</b>	<b>10,800</b>
-			
- <b>Total Expenditures</b>	<b>18,000</b>	-	<b>18,000</b>
-			
- <b>Net Change in Fund Balance</b>		-	
-			
- <b>To amend budget in order to reallocate budget provisions as needed.</b>			

Councilman Stallworth made a motion to approve the budget amendment as presented and recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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The next item for consideration was authorization for the City Clerk to advertise for requests for proposals on the general liability insurance as recommended by Bruce Knott, Human Resources Director.

Councilman Stallworth made a motion to authorize the City Clerk to advertise for requests for proposals on the general liability insurance as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE", Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverson "AYE". (Approved 7-19-11)

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The next item for consideration was a request to advertise for bids for the EECBG Energy Efficiency Project as recommended by Harry Schmidt, Community & Economic Development Director. This project will allow for upgrades to the downtown buildings (City Hall, Community Development, and the new Art Center buildings).

Councilman Stallworth made a motion to authorize the City Clerk to advertise for bids for the EECBG Energy Efficiency Project for upgrades to the downtown buildings (City Hall, Community Development, and the new Art Center buildings) as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE", Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverson "AYE". (Approved 7-19-11)

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The next item to be considered was a request to remove fixed assets from the City's inventory after completion of the FY 2011 physical inventory as recommended by Jeane Bull, Assistant Comptroller. The inventory items to be removed are as follows:

RETIRED ASSETS

ASSET #	DESCRIPTION	VALUE	REASON
		\$	
10836	METER READING COMPUTER	2,499.99	SWAPPED PART OF AMR PROJECT
		\$	
10837	METER READING COMPUTER	2,499.99	SWAPPED PART OF AMR PROJECT
		\$	
10838	METER READING COMPUTER	2,499.99	SWAPPED PART OF AMR PROJECT
		\$	
10839	METER READING COMPUTER	2,499.99	SWAPPED PART OF AMR PROJECT
		\$	
3082	1999 DODGE TRUCK	14,946.95	TOTALED BY INSURANCE COMPANY

		\$	
10724	ONAN GENERATOR	1,785.00	COULD NOT FIND
		\$	
36	CANON FAX MACHINE	900.00	COULD NOT FIND
		\$	
12575	STIHL CHAINSAW	351.95	STOLEN
		\$	
12577	STIHL CHAINSAW	351.95	STOLEN
		\$	
PHONE4	PHONE SYSTEM	3,627.00	RETIRED
		\$	
14103	MOTORCYCLE	13,991.95	END OF LEASE
		\$	
14104	MOTORCYCLE	13,991.95	END OF LEASE
		\$	
14105	MOTORCYCLE	13,991.95	END OF LEASE
		\$	
14106	MOTORCYCLE	13,991.95	END OF LEASE
		\$	
14107	MOTORCYCLE	13,991.95	END OF LEASE

Councilman Stallworth made a motion to approve removal of fixed assets from the inventory listed above as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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Next for consideration was a bid award for the Citywide Sewer Evaluation and Rehabilitation Project to Kappa Development & General Contracting, Inc., Gulfport, MS, for the base bid plus Alternate #1 for a total of \$1,325,405.15 and authorize the City Manager to execute the contract, as recommended by Jaci Turner, Program Manager, and Compton Engineering, Inc.

Councilman Stallworth made a motion to approve the bid award for the Citywide Sewer Evaluation and Rehabilitation Project to Kappa Development & General Contracting, Gulfport, MS, for the base bid plus Alternate #1 for a total of \$1,325,405.15 and authorize the City Manager to execute the contract as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

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Next for consideration was a Resolution for the 2011 Analysis of Impediments to Fair Housing Update, as recommended by Harry Schmidt, Community and Economic Director. The resolution is spread on the minutes as follows:

**RESOLUTION ADOPTING CITY OF PASCAGOULA  
2011 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING UPDATE**

WHEREAS, the City of Pascagoula is an Entitlement City under the terms of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Program (CDBG) and as such receives an annual allocation of CDBG funds; and

WHEREAS, as a CDBG Entitlement City, Pascagoula is required by CDBG regulations to affirmatively further fair housing for all of its citizens; and

WHEREAS, Title VII of the Civil Rights Act of 1969, the Federal Fair Housing Act has provided for the equal opportunity for all Americans in the sale, rental, and financing of housing and has prohibited housing discrimination on the basis of Race, Color, Creed, Religion, Sex, Age, Handicap, Familial Status, or National Origin for the past thirty years; and

WHEREAS, illegal barriers to equal opportunity in housing, no matter how subtle, that diminish the rights of some of our citizens, diminish the rights of all of our citizens; and

WHEREAS, the City of Pascagoula fully supports the intent and purpose of the Federal Fair Housing Act and pursues policies and practices to achieve its goals and objectives; and

WHEREAS, the City of Pascagoula has certified that it will affirmatively further fair housing in the City; and

WHEREAS, the City of Pascagoula acknowledges that an informed citizenry is the key to affirmatively furthering fair housing and avoiding discriminatory housing practices; and

WHEREAS, the Pascagoula Department of Community Development, which has responsibility for administration of the CDBG program in accordance with HUD regulations, has

prepared a 2011 Analysis of Impediments to Fair Housing, which is an update of the 2004 Pascagoula Analysis of Impediments to Fair Housing; and

WHEREAS, the City Council of the City of Pascagoula deem it to be in the best interests of the citizens of the City of Pascagoula to adopt, the 2011 Analysis of Impediments to Fair Housing, which is an update of the 2004 Analysis of Impediments to Fair Housing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pascagoula that:

SECTION ONE: The City of Pascagoula 2011 Analysis of Impediments to Fair Housing be and is hereby acknowledged; and

SECTION TWO: The Fair Housing Officer designated by the Council be and is hereby directed to implement the 2011 Analysis of Impediments to Fair Housing.

The above Resolution was introduced by Councilman Stallworth, seconded for adoption by Councilman Corder, and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". The Mayor then declared the Resolution adopted on the 19th day of July, 2011.

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The next item for consideration was a Resolution for the 2011 Fair Housing Public Information Outreach Strategy, as recommended by Harry Schmidt, Community and Economic Director. The resolution is spread on the minutes as follows:

**RESOLUTION ADOPTING A 2011 FAIR HOUSING  
PUBLIC INFORMATION OUTREACH STRATEGY**

WHEREAS, the City of Pascagoula is an Entitlement City under the terms of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Program (CDBG) and as such receives an annual allocation of CDBG funds; and

WHEREAS, as a CDBG Entitlement City, Pascagoula is required by CDBG regulations to affirmatively further fair housing for all of its citizens; and

WHEREAS, Title VII of the Civil Rights Act of 1969, the Federal Fair Housing Act has provided for the equal opportunity for all Americans in the sale, rental, and financing of housing and has prohibited housing discrimination on the basis of Race, Color, Creed, Religion, Sex, Age, Handicap, Familial Status, or National Origin for the past thirty years; and

WHEREAS, illegal barriers to equal opportunity in housing, no matter how subtle, that diminish the rights of some of our citizens, diminish the rights of all of our citizens; and

WHEREAS, the City of Pascagoula fully supports the intent and purpose of the Federal Fair Housing Act and pursues policies and practices to achieve its goals and objectives; and

WHEREAS, the City of Pascagoula has certified that it will affirmatively further fair housing in the City; and

WHEREAS, the City of Pascagoula acknowledges that an informed citizenry is the key to affirmatively furthering fair housing and avoiding discriminatory housing practices; and

WHEREAS, the Pascagoula Department of Community Development, which has responsibility for administration of the CDBG program in accordance with HUD regulations, and has prepared a 2011 Fair Housing Public Information Outreach Strategy, which is an update of the 2004 Fair Housing Public Information Outreach Strategy, a copy of which is attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, the City Council of the City of Pascagoula deems it to be in the best interests of the citizens of the City of Pascagoula to adopt and implement the 2011 Fair Housing Outreach Strategy, which is an update of the 2004 Fair Housing Public Information Outreach Strategy.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pascagoula that:

SECTION ONE: The Fair Housing Public Information Outreach Strategy be and is hereby acknowledged; and

SECTION TWO: The Fair Housing Officer designated by Resolution of this City Council on July 19, 2011, shall be Harry Schmidt and is hereby directed to implement the 2011 Outreach Strategy.

The above Resolution was introduced by Councilman Stallworth, seconded for adoption by Councilman Corder, and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. The Mayor then declared the Resolution adopted on the 19th day of July, 2011.

Exhibit A – “The Fair Housing Public Information Outreach Strategy” is spread on the minutes as follows:

**FAIR HOUSING  
PUBLIC INFORMATION OUTREACH STRATEGY  
PASCAGOULA, MISSISSIPPI**

***2011 UPDATE***

***PURPOSE OF OUTREACH STRATEGY***

As a recipient of Community Development Block Grant funds from the U.S. Department of Housing and Urban Development, the City of Pascagoula has certified that it will affirmatively further fair housing. To this end, Pascagoula has developed a strategy for reaching out to its residents to make them aware of the Fair Housing Act. Further, the strategy is intended to broaden community-wide knowledge of the prohibitions under the Fair Housing Act, what is covered by the Act, and what course of action should be taken if violations of the Act occur.

**IMPEDIMENTS TO FAIR HOUSING**

In previous years, the City of Pascagoula prepared an Analysis of Impediments to Fair Housing, which is an attempt to identify impediments to fair housing choice in the City. The Analysis of Impediments was updated in 2004 and most recently updated in June 2011. Among other things, the study concluded that the most important element toward eliminating impediments to fair housing is education of the public. The more Pascagoula residents know about the Fair Housing Act, what is covered, what is prohibited, and what to do if violations occur, the greater the likelihood that impediments will be reduced or eliminated completely.

The following are U.S. Department of Housing and Urban Development definitions that are critical in the implementation of this Fair Housing Outreach Strategy:

- *Fair Housing Choice*

Fair housing choice is defined by the U.S. Department of Housing and Urban Development (HUD) as “*the ability of persons regardless of race, color, religion, sex, handicap, familial status or national origin, of similar income levels to have available to them the same housing choices*”.

- *Impediments to Fair Housing*

HUD defines impediments to fair housing choice as “*any actions, omissions or decisions, which restrict housing choices or the availability of housing choices because of race, color, religion, sex, national origin, familial status, or handicap*”.

### **OUTREACH STRATEGY TEAM**

The Fair Housing Outreach Strategy Team is comprised of City leaders, local realtors, lenders, apartment owners, and housing and supportive service providers.

The Team meets as necessary to develop a strategy adopted by the City Council. The Team will meet at least once annually to evaluate accomplishments and will make changes as deemed appropriate. Significant changes to the strategy must be approved by the City Council.

It is important to note that the 2011 Update of the Outreach Strategy takes into account the effects of Hurricane Katrina and includes impediments that have resulted or have a risk of occurring as a result of the impact of the storm.

Representatives of the following agencies comprise the Outreach Strategy Team. The Team works in concert with staff of the City of Pascagoula's Department of Community Development and a professional planning consultant to develop a strategy.

- City of Pascagoula – CDBG Program Administrator
- South Mississippi Legal Services
  - HUD Sponsored Fair Housing Center
  - HUD Sponsored Education and Outreach Project
- Local Realtors
- Lending Institutions
- Regional Housing Authority

### **STRATEGY DEVELOPMENT PROCESS**

The Outreach Strategy was developed as a result of a logical process that included the following:

- A review and description of the Fair Housing Act
- A discussion of impediments to fair housing identified in the Analysis of Impediments
- Establishing goals for the strategy
- Identifying public information projects needed to reach established goals

### **THE FAIR HOUSING PUBLIC INFORMATION OUTREACH STRATEGY**

The Fair Housing Outreach Strategy is a part of the 2011 Update of the Fair Housing Planning – Analysis of Impediments whose implementation will affirmatively further fair housing. This strategy includes the following components:

- Identification of impediments
- Identification of appropriate measures to reduce or eliminate the impediments
- Goals for the Outreach Strategy
- Outreach projects to educate the public so as to reduce or eliminate impediments to fair housing
- The process for monitoring and evaluating projects

### **IMPEDIMENTS IDENTIFIED/MEASURES TO ELIMINATE**

1. ***Impediment: Evidence some Housing Discrimination does exist.***

Commentary:

After an interagency meeting and discussions with the Regional Housing Authority, the conclusion was reached that this impediment still likely exists in Pascagoula although no specific instances were documented. While attendees at the interagency meeting agreed that this problem likely does exist, it was conveyed by some present that this is more of a compliance issue than a discrimination issue. Some landlords are hesitant to rent to Section 8 residents due to the strict property requirements mandated by the Housing Authority. Compliance with such standards is viewed by some as an added burden and expense.

Measures To Eliminate or Reduce Impediment:

This impediment can be reduced through continued education of the general public of the basic rights under the Fair Housing Act and courses of action that can be taken to report such cases of discrimination. Additionally, continued and expanded education for landlords pertaining to the law and penalties for fair housing discrimination is also essential to reduce this problem.

Action 1: Each April, adopt a proclamation declaring April to be observed as fair housing awareness month

Action 2: Each April, post a flyer about Fair Housing Awareness Month at public buildings and on the City website. If cost effective, distributes flyer in water bills for all residents to see.

Action 3: Developing a Fair Housing information pamphlet available and on display at all times in City departments and buildings.

Action 4: Include a Fair Housing information page on the City's website.

Action 5: Explore the possibility of partnering with area agencies to put on fair housing training workshop for landlords.

Timeframe For Action: Ongoing and long term.

**2. Impediment: Lack of housing (renter and owner-occupant) that is accessible to the elderly and persons with disabilities.**

Commentary:

After thorough review of the City's Comprehensive Plan, an interagency meeting, discussions with the Regional Housing Authority, and several others, there is clearly a lack of affordable and accessible housing to accommodate the needs of the elderly and disabled.

The lack of housing for elderly and disabled is a problem in Pascagoula primarily due to a dated housing stock, since the majority of homes were built prior to 1980. However, a new problem has emerged post-Katrina with the imposed FEMA Base Flood Elevations. Homes located in certain areas of the City are now required to be elevated to a specific FEMA mandated height. Elevated homes are simply not user friendly for elderly and disabled persons, and the cost to make them ADA compliant with ramps and elevators, etc., is significant.

Measures To Eliminate or Reduce Impediment:

The City of Pascagoula will continue to work with community organizations to encourage housing rehabilitation programs and require ADA compliance where necessary and appropriate.

Action 1: Educate developers and non-profit organizations about ways they can enhance the accessibility of existing units and increase the availability of accessible units

Action 2: Systematically inform residents about their right to reasonable accommodations under fair housing law

Action 3: Encourage property owners of housing built before 1991 to make their rental units physically accessible to persons with disabilities

Action 4: Through the City's Emergency Repair program, continue to make accommodations to the homes of disabled people to make them accessible. These accommodations include ramps, grab bars, and adjustment of counter heights.

Action 5: Continue to use CDBG funds throughout the City to construct ADA compliant sidewalks and curb cuts to make areas wheelchair accessible.

Timeframe For Action: Ongoing and long term.

3. **Impediment: Predatory lending practices**

Commentary:

After an interagency meeting and interviews with several lenders, it was agreed that this impediment likely exist in Pascagoula although no specific instances could be recalled. Attendees concurred that predatory lending practices are most commonly seen when homeowners utilize internet or out of town lenders. Homebuyer education has been helpful in decreasing this problem locally, and federal regulations put in place to protect homebuyers have also been effective.

Measures To Eliminate or Reduce Impediment:

Predatory lending seems to be a diminishing problem in the City of Pascagoula, but it still exists primarily due to lenders found on the World Wide Web. The City will continue to support efforts lead by My Home My Coast, the Mississippi Homebuyer Education Center, the Mississippi Development Authority and others with homebuyer education, ownership and outreach programs to inform citizens of the dangers of predatory lending practices and make them aware of their rights.

Action 1: Explore possibility of partnering with area agencies and banks to put on fair housing training workshop for residents about predatory lending practices.

Action 2: Maintain information about predatory lending practices on the City's fair housing page on the website.

Action 3: Consider developing a predatory lending information pamphlet in English and Spanish available and on display at all times in City departments and buildings. If cost effective, include annually in water bills for all residents.

Timeframe For Action: Ongoing and long term.

4. **Impediment: The unavailability of code standard affordable housing for rent and homeownership limits housing choice.**

Commentary:

There is still a lack of code standard affordable housing units for purchase and for rent in Pascagoula which limits housing opportunities for low and moderate income families and makes it extremely difficult to purchase a home. This is primarily a problem due to the City's dated housing stock and mitigation expenses associated with code compliance. FEMA Base Flood Elevation compliance is also adding to this problem.

Measures To Eliminate or Reduce Impediment:

Action 1: Continue to enforce building codes to bring more affordable homes up to standard and take steps necessary to assure mitigation and compliance costs remain reasonable.

Action 2: Continue to support programs such as My Home My Coast to assist first-time homebuyers, and continue to support efforts by Rebuild Jackson County, the Mississippi Development Authority and others to improve and expand the affordable, code-standard housing stock in the City.

Action 3: Continue to encourage mixed use development in appropriate areas as discussed in the City's 2010 Comprehensive Plan which accommodates all incomes and ages.

Timeframe For Action: Ongoing and long term.

5. **Impediment: Skyrocketing cost of insurance for all types of housing.**

Commentary:

In the aftermath of Hurricane Katrina, the high cost of insurance in the City of Pascagoula and along the Gulf Coast has become a major problem. Insurance costs are considerable everywhere, but are particularly extreme in certain parts of the City closer to the beachfront.

Realtors present at the interagency meeting conveyed that many insurers are now required to ask prospective clients if properties are located north or south of Interstate 10. Some properties south of Interstate 10 that have never experienced flooding are now more expensive to insure just because they are south of the Interstate. Since the entire City of Pascagoula is located south of Interstate 10, the affordability of housing has been impacted dramatically by rising insurance costs, thus impeding housing choices for all, particularly for those who can least afford it.

Measures To Eliminate or Reduce Impediment

Action 1: Continue to support efforts on the state and federal levels to address this issue.

Timeframe For Action: Immediate and ongoing.

**6. Impediment: Language Barriers**

Commentary:

In the last five years, there has been a significant influx of Hispanic residents across the Coast. Banks and realtors have had to hire translators to assist with this problem in many cases.

Measures To Eliminate or Reduce Impediment

Action 1: Complete a Spanish Fair Housing brochure and provide copies in City buildings and a link on the Community Development webpage.

Action 2: Consider developing a predatory lending information pamphlet in Spanish available and on display at all times in City departments and buildings.

Action 3: During Fair Housing Month in April, also display Fair Housing posters in Spanish.

Timeframe For Action: Ongoing and long term.

**7. Impediment: Lack of Mass Transportation**

Commentary:

Although this was discussed at the interagency meeting and it was noted that while there is a lack of transportation across the Coast, there is also a lack of riders. But after review of the Comprehensive Plan and other research, it has been determined that the lack of transportation in Pascagoula may be an impediment to fair housing choice, particularly in low income areas.

Measures To Eliminate or Reduce Impediment

Action 1: Continue to support strategies of the City of Pascagoula's Comprehensive plan which envisions a mass transit system and bike paths throughout the City.

Action 2: Continue to implement strategies of the Comprehensive Plan to create more mixed-use areas, and neighborhood centers where residents are able to walk to and from work, decreasing the transportation barrier.

**8. Impediment: Zoning Ordinance limits site opportunities for manufactured housing (Ordinance requires that manufactured housing only be located in mobile home parks)**

This impediment was identified in a neighboring City, and after the interagency meeting and discussion with City of Pascagoula leaders, it was determined that this would also be considered an impediment since the ordinance essentially limits residents' ability to own

a home in some cases. This ordinance has posed an issue particularly in recent years as residents have sought approval to modify or add on to FEMA cottages and make them permanent dwellings on their personal property. For some residents, this is viewed as the most affordable option for homeownership. However, the City has not allowed this and continues to only allow such housing in designated areas.

*Measures To Eliminate or Reduce Impediment*

Action 1: Continue to exhaust all efforts to assist residents with rebuilding efforts in the aftermath of Hurricane Katrina and continue to work with other agencies to expand affordable housing options in the City.

Action 2: Continue to support strategies of the Comprehensive Plan which encourages the development of affordable housing for all ages.

Timeframe For Action: Ongoing and long term.

9. **Impediment: The lack of credit worthy low- and moderate-income families limits their opportunity to purchase affordable housing and to participate in down payment assistance programs.**

After an interagency meeting and conversations with City leaders, realtors and lenders, the conclusion was reached that this impediment does exist in Pascagoula. Finding credit worthy candidates has become a problem in Pascagoula and likely across the Country due to the ease of getting credit, but the lack of education about the importance of maintaining good credit. The City previously utilized CDBG funding for credit repair and homebuyer assistance programs, but few took advantage of it and the City could not compete with the MyHome My Coast, so it stopped offering the program.

Realtors, bankers, and all present at the interagency meeting agreed that homebuyer education and the importance of establishing good credit needs to continue but more importantly, needs to start in the schools.

*Measures To Eliminate or Reduce Impediment*

Action 1: The City of Pascagoula will encourage local credit unions/and or banks to initiate an in-school student run bank or credit union similar to the successful program pioneered at Biloxi High School where trained students handle financial transactions, cash deposits and loan payments and learn valuable budgeting and money saving lessons.

Action 2: Consider partnering with area agencies and banks to host credit repair work shop

Action 3: Continue to support programs like My Home My Coast and others that provide credit repair and homebuyer assistance and education programs.

Timeframe For Action: Immediate and Ongoing.

**GOALS OF THE OUTREACH STRATEGY**

The Fair Housing Outreach Strategy Team review has established the following goals for its public information outreach strategy:

- To broaden outreach activities to substantially increase the awareness of Pascagoula citizens of the Fair Housing Act, who and what it covers, what it prohibits, and what to do if a violation occurs.
- Through increased public awareness, significantly reduce or eliminate impediments to fair housing choice.

### **OUTREACH PROJECTS TO MEET GOALS**

1. *Fair Housing-Equal Opportunity Booklet* – Annually, the City of Pascagoula will mail copies of the booklet to the following:
  - Lenders
  - Realtors
  - Apartment Owners
  - Apartment Guide

Additionally, booklets will be made available for the public to obtain a copy at the following locations:

- City Hall
  - Department of Community Development
  - Housing Authority Public Housing Sites
  - Public Libraries
  - Local Lending Institutions
2. *Fair Housing Posters* – The City of Pascagoula will place Fair Housing posters printed in English and Spanish at the following locations:
    - City Hall
    - Department of Community Development
    - Housing Authority Public Housing Sites
    - Public Library
  3. *Resolution Declaring Fair Housing Month* – At the first meeting of the City Council of the month in April of each year, the City Council will adopt a resolution declaring fair housing month and urging citizens to be aware of and adhere to requirements of the Fair Housing Act.
  5. *The City of Pascagoula Web Site, Community Development Web Page*, shall be utilized to display information relative to fair housing
  6. *Public Library* – The City of Pascagoula will make a broad range of information available at the public library site. Information at the Library will include copies of the following, among other things:
    - The Fair Housing Act
    - Fair Housing-Equal Opportunity for All
    - 2011 Update of Analysis of Impediments
    - Fair Housing Public Information Outreach Strategy

7. *Fair Housing Seminars/Training* – The City of Pascagoula, in conjunction with the HUD Sponsored South Mississippi Legal Services Fair Housing Center and Education and Outreach Program, and the Gulf Coast Fair Housing Center will conduct Fair Housing Seminars and training. The seminars will be well publicized in English and Spanish.

**PROCESS FOR MONITORING AND EVALUATING OUTREACH PROJECTS**

The Outreach Strategy Team recognizes the importance of monitoring and evaluating the effectiveness of outreach activities and the importance of keeping public information current.

The Team will meet at least once a year and will review each activity undertaken. Adjustments and modifications to the Outreach Strategy will be made annually, if necessary.

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

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Next for consideration was an agreement with Neel-Schaffer, Inc. to monitor the performance of debris removal contracts for the City of Pascagoula as recommended by Steve Mitchell, Operations Manager. The agreement would be for a five-year period beginning July 19, 2011, through July 18, 2016. The agreement is spread on the minutes as follows:

**AGREEMENT TO MONITOR PERFORMANCE  
OF DEBRIS REMOVAL CONTRACTS  
FOR THE CITY OF PASCAGOULA**

This Agreement is made as of the \_\_\_\_ day of July, 2011, by and between the City of Pascagoula, Mississippi (hereinafter referred to as the Owner), and Neel-Schaffer, Inc., (hereinafter referred to as the Monitor). In consideration of the mutual covenants and promises contained herein, the Owner and the Monitor agree as follows:

**ARTICLE 1 - SERVICES**

Monitor's responsibility under this Agreement is to provide monitoring and management services in response to disasters, as described in Scope of Services attached hereto as Exhibit "A." Monitor will provide data and access to information to allow the Owner to closely oversee performance under this agreement. This is a non-exclusive agreement. No amount of work is guaranteed under this agreement.

**ARTICLE 2 – PAYMENT**

Monitor Fee Schedule is included in Exhibit "B," attached. Monitor acknowledges that the Owner

will apply for financial assistance from the Federal Emergency Management Agency (FEMA), Federal Highway Administration (FHWA), and/or the state emergency management agency. Therefore, Monitor represents that it will perform all Services hereunder in a manner, time and place so as to assist with such reimbursement to the Owner. Monitor shall submit monthly statements for services rendered. Monitor's statements shall be due and payable within 45 calendar days.

### **ARTICLE 3 – TERM**

The term of this agreement is five years, extendable by mutual agreement of the parties.

### **ARTICLE 4 – LIABILITY INSURANCE**

The Monitor agrees to and shall procure and maintain during the duration of this Agreement, Monitor's general public liability and property damage insurance, including auto liability and employer's liability coverage, insuring Monitor from all claims from personal injury, including death, and claims for destruction or damage to property arising out of or in connection with any operations under this Agreement, whether such operations are by the Monitor or subcontractor to the Monitor, and said insurance shall name, waive and hold harmless the Owner. All liability insurance must contain contractual action over claims cause.

## **ARTICLE 5 – INSURANCE LIMITS OF LIABILITY**

Insurance shall be written with limits of liability of not less than the following:

- 1 \$1,000,000 primary limit, for all damages arising out of bodily injury, including death, with umbrella coverage of \$2,000,000.
- 2 \$1,000,000 primary limit for all property damage, with umbrella coverage of \$2,000,000.

## **ARTICLE 6 – WORKERS’ COMPENSATION INSURANCE**

Monitor shall provide and maintain Workers Compensation Insurance at its expense during the term of this Agreement, in accordance with state workers compensation laws.

## **ARTICLE 7 – ERRORS AND OMISSIONS**

Monitor shall provide and maintain an errors and omissions policy sufficient to cover the scope of this project. Monitor agrees to provide, if requested, a declaration sheet showing the effective dates and coverage for this policy.

## **ARTICLE 8 – PERFORMANCE SCHEDULES**

Monitor shall provide progress reports to the Owner on a weekly basis or more frequently as requested by the Owner. Such reports shall contain, at a minimum, total cubic yards collected, daily totals, and description of the geographical areas being addressed by the Contractor.

## **ARTICLE 9 – TERMINATION**

The Owner may terminate this Agreement upon written notice to the Monitor. The Monitor may terminate this Agreement upon thirty (30) days written notice to the Owner. During such termination period, the Monitor shall continue to diligently perform all of its duties hereunder. After a receipt of a termination notice and except as otherwise directed by the Owner, the Monitor shall: stop work on the date and to the extent specified; terminate and settle all orders and subcontracts relating to the performance of the terminated work; transfer all work in process, completed work, and other materials related to the terminated work as directed by the Owner; and continue and complete all parts of that work that have not been terminated.

## **ARTICLE 10 – PERSONNEL**

The Monitor represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. All of the services required herein under shall be performed by the Monitor or under its supervision and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

## **ARTICLE 11 –SUBCONTRACTING**

Monitor shall be responsible for the compliance of all subcontracting parties with the terms of this Agreement and with any applicable local, state or federal laws or regulations. Monitor shall be solely responsible for timely paying its subcontractors.

## **ARTICLE 12 – LOCAL PREFERENCE**

Monitor will make every effort to utilize local employees, subcontractors, equipment rental, supplies and other locally available resources.

## **ARTICLE 13 - CREDIT**

Monitor shall not pledge the Owner's credit or make the Owner a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. Monitor further represents and warrants that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

## **ARTICLE 14 - PERFORMANCE**

Monitor shall perform its obligations hereunder in compliance with all applicable local, state and federal laws and regulations.

## **ARTICLE 15 –FEDERAL AND STATE TAX**

The Monitor shall pay all local, state, and federal taxes which may become due based upon its performance of this Agreement. The Monitor shall be responsible for payment of its own and its share of its employee FICA and Social Security benefits with respect to this Agreement.

## **ARTICLE 16 –REMEDIES**

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or at equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## **ARTICLE 17 – CONFLICT OF INTEREST**

The Monitor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder.

## **ARTICLE 18 –ACCESS AND AUDITS**

The Monitor shall maintain adequate records to justify all hours incurred and charged in performing the services for at least five (5) years after completion of the Agreement.

Furthermore, the Monitor will supply the Owner with relevant project documentation that may be necessary for audit purposes.

#### **ARTICLE 19 –NONDISCRIMINATION**

The Monitor warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

#### **ARTICLE 20–ENTIRETY OF CONTRACTUAL AGREEMENT**

The Owner and the Monitor agree that this Agreement including its amendments sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, deleted, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Monitor shall not assign or transfer any of its rights, benefits or obligations under this Agreement except for transfer to a wholly owned subsidiary company or resulting from a merger or consolidation of Monitor with a third party.

#### **ARTICLE 21 –AUTHORITY TO PRACTICE**

The Monitor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its businesses, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the Owner upon request.

#### **ARTICLE 22 –SEVERABILITY**

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable as permitted by law.

#### **ARTICLE 23 – MODIFICATION OF WORK**

The Owner reserves the right to make changes in the services, including alterations, reductions therein or additions thereto. Upon receipt by the Monitor, of the Owner notification of a contemplated change, the Monitor shall: (1) if requested by Owner, provide an estimate for the increase or decrease in cost due to the contemplated change; (2) notify the Owner of any estimated change in the completion date; and (3) advise the Owner in writing if the contemplated change shall affect the Monitor's ability to meet the completion dates or schedules of this Agreement.

**ARTICLE 24 – SUCCESSORS AND ASSIGNS**

This Agreement is binding upon and will inure to the benefit of Owner and Monitor and their respective successors and assigns. The rights and obligations under this agreement may only be transferred by; 1) transfer to a wholly owned subsidiary of Monitor’s parent company, 2) as a result of a merger or acquisition by another company, or 3) by mutual agreement of the parties.

**ARTICLE 25 – LAWS AND REGULATIONS**

This Agreement shall be interpreted under the laws of the State of Mississippi, with exclusive venue for any matter arising from this Agreement. All applicable federal and state laws, municipal ordinances, and the rules and regulations of all authorized entities having jurisdiction over any part of this project shall apply to the Agreement throughout, and they will be deemed to have been included in the Agreement as though herein written.

In Witness Whereof, the parties have made and executed this Agreement on behalf of the parties on the day and year above written.

Monitor:    Owner: Neel-Schaffer, Inc.    City of Pascagoula

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## **Exhibit A - Scope of Services Debris Removal Monitoring**

### **Staff Mobilization**

When a potential disaster threatens the Owner, the debris monitoring firm (Monitor) will mobilize 2 to 3 days in advance with key staff experienced in various aspects of debris operations (including truck certification, mapping/zone development, etc.) in order to participate in the "response" phase of the disaster event. Additional Monitor staff shall be contacted and put on standby for potential mobilization. Logistical arrangements for out of town staff such as lodging arrangements for key staff, is considered to be the responsibility of the Monitor.

### **Field Documentation of Work**

Monitor shall carefully document debris removal activities as well as hazardous trees and trees that contain hazardous hanging limbs that need to be removed. Monitor will work closely with the Owner and with FEMA/FHWA to determine the most effective methods of documentation to ensure that debris removal is eligible for federal funding. Monitor shall communicate with FEMA to ensure documentation supports project reimbursement. Monitor will work with FEMA in an effort to pre-validate as much eligible debris, tree and limb removal as practical.

### **Collection Monitoring of Rights-of-Way and Public Property Debris**

Monitor will provide collection monitors with each of the Contractor's loading crews to ensure each load is related to the disaster and is eligible for federal reimbursement. The street address and/or GPS coordinates will be recorded on each load ticket. The Monitor will initiate a multipart ticket in the field for each load, containing information related to the location of the debris, time, date, truck identification, truck driver, etc. The ticket will then be delivered to the temporary debris storage and reduction site (TDSRS) or disposal site with the truck driver for load rating. Load ticketing and documentation will also be performed for hazardous tree and limb removal. This project may include monitoring the removal of abandoned cars, boats, marine debris, white goods, beach cleaning, and structure demolition. Monitor will provide similar services if debris removal from private property/right-of-entry (ROE) is approved for this project. Field monitoring of debris haulers shall be performed in accordance with current FEMA, FHWA and state requirements and in coordination with the Owner.

### **Monitor Training**

Monitor will provide training to all employees concerning safety, eligibility for reimbursement, and disaster specific information. The Monitor will be required to perform adequate training for locally hired staff at no expense to the Owner. All Monitor employees must be able to effectively communicate to a level appropriate to their responsibilities.

### **Spot Checks and Auditing of Monitors**

Monitor will provide roving monitors, field coordinators, and supervisory personnel to ensure that

field monitors are making accurate eligibility calls, keeping good documentation, and are working effectively with the debris removal contractor.

**Project Mapping**

Maps will be used to document the debris removal progress. The final pass along each roadway will be mapped for the Owner's information, and FEMA documentation. Monitor will assist the Owner in public communication and will document and relay any citizen complaints for action by the contractor or the Owner.

**Truck Certification**

Monitor will establish a team of individuals who will inspect and certify vehicles for hauling storm related debris in accordance with FEMA guidelines. A certification sheet with measurement, photos, and calculations documenting the capacity of the truck is kept for load rating and ticket auditing. Summary books will be kept at each TDSRS/disposal site for quality control. Certifications should also include a methodology to discourage collection contractors from modifying their vehicle after certification, such as identifying unique attributes to the vehicle like sideboards. Photographs of the vehicle and its driver shall be documented. Periodic spot checks and recertification of trucks that were potentially altered after initial certification shall be performed.

**Quality Control/Quality Assurance**

A QA/ QC program should be implemented by the Monitor to minimize errors in debris monitor tickets and all documentation functions. Eligibility of work, reliability of documentation and data accuracy are critical in achieving full reimbursement for eligible project expenses.

**TDSRS/Disposal Sites**

Monitor will provide trained monitors at TDSRS and disposal sites to call loads based on the amount of debris in each truck. It is imperative that these monitors make accurate calls to safeguard public funds. Monitors will also make sure that the trucks are empty as they leave the site. Furthermore, monitors will review the truck certification worksheets to make sure the trucks have not been modified to affect their capacity (shortened or removed sideboards, for example). Similar systems will be used to verify, track, and document hauling of reduced debris from TDSRS sites through final disposal, if applicable.

**Data Management**

Monitor will establish an advanced project data management system and enter load ticket information on a daily basis. This information can be provided to the Owner, FEMA, and the Contractor using GPS coordinates or addresses for tree and stump removal, and debris removal progress, as applicable. Additionally, the staff will work with the Contractor to reconcile invoices, and review debris removal invoices for recommendation of payment by the Owner. Furthermore, Monitor will organize field information for FEMA documentation including photographs and/or GPS coordinates. Monitor will help track invoices for FEMA reimbursement and provide additional supporting information as requested.

**Public Information Support** - Monitor may be asked to assist the Owner in public outreach following a disaster event as it relates to debris recovery efforts. This may include establishing and staffing (including supplying equipment, phone lines, etc.) a "debris hotline" to respond to public complaints and concerns, or establishing a website. This also may include assistance with press releases, public notices, and other public information functions. All functions will be performed in a manner to maximize federal and state reimbursement.

### **Funding Support**

The Monitor shall assist the Owner in securing maximum reimbursement for eligible work from state and federal agencies. Specific funding support services may include working with the Owner to develop a cash flow strategy that focuses on early reimbursement. This includes assistance in preparing a debris quantity estimate that is supported by FEMA staff, early preparation of a project worksheet to cover the estimated cost of the entire debris removal effort at the outset of the project, and assisting the Owner and FEMA personnel with Project Worksheets, Versions, etc. Monitor shall be prepared to assist Owner with appeals based on their in-depth knowledge of FEMA and FHWA reimbursement policies. Monitor shall be prepared to assist the Owner, if requested, in tracking progress of Project Worksheets and providing quick response to any problem issue that may arise that could slow funding. Monitor shall be prepared to assist Owner in finding additional funding reimbursement sources related to disaster mitigation.

### **Recovery Services**

When requested, Monitor shall assist the Owner with field implementation and FEMA

reimbursement services in the community's recovery process including, but not limited to:

- Right-of-Entry (ROE) administration and data base management
- ROW and private property vegetative/C & D hazard removal monitoring
- ROW and private property demolition coordination and monitoring
- Monitoring of marine debris removal and beach sand cleaning

### **Other Related Services**

Services not specifically identified in this request, but are needed to provide a complete debris removal and documentation project.

### **Pre-Storm Coordination**

Monitor will be prepared to meet with the Owner once prior to June 1<sup>st</sup> of each year to coordinate services for the upcoming storm season. Additionally, Monitor shall meet with the Owner immediately prior to a credible disaster threat. These meetings shall occur at no cost to the Owner and are meant to facilitate increased coordination of efforts, to discuss the Owner's expectations of the Monitor, and to fast track recovery activities when a disaster strikes.

### **Safety Meetings and Monitoring Updates**

Safety of monitoring staff is of paramount importance. Monitor will hold regular meetings with debris monitors and staff for project updates and to communicate safety issues. If important information becomes available, the staff may meet more frequently.

### **Coordination Meetings with Contractor(s)**

Monitor will initiate a coordination meeting with the debris removal contractor to help expedite the work, and to discuss any issues that may arise during the project. It is important that the monitor and contractor are communicating with each other to ensure a successful project.

### **Contractor Damages**

The Monitor may be asked to develop a database application to track and help the Owner manage contractor damages.

**Status Reports**

Monitor will provide detailed daily or weekly status reports to the Owner as requested for use and information. Relevant project statistics and cumulative statistics will be shown in a straight forward manner to officials to provide information to the media or to their constituents.

**Exhibit B - Fee Schedule City of Pascagoula  
Debris Removal Monitoring**

<b>Position</b>	<b>Hourly Rate</b>
Project Manager	\$75
Operations Manager	\$65
Data Manager	\$45
GIS Analyst	\$65
Field Supervisor	\$55
Debris Site/Tower Monitors	\$38
Collection Monitor	\$38
Data Entry Clerk/ Clerical	\$32
Billing/Invoice Analysts	\$32

We will not charge any reimbursement expenses. Labor costs will cover all expenses except marine based expenses such as boat rental. All overtime hours charged at the same hourly rate. Included items for no additional expense for reimbursement will be food, lodging, cell phones, GPS, automobile expenses, etc.

Councilman Stallworth made a motion to approve the agreement with Neel-Schaffer, Inc. to monitor the performance of debris removal contracts for the City of Pascagoula as recommended and authorize the City Manager to execute the related documents. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. (Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

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The next item for consideration was a request to renew a contract with Southern Financial Systems, Inc., Hattiesburg, MS, for the collection of delinquent court fines at the Police Department, as recommended by Eddie Williams, City Attorney. The contract is spread on the minutes as follows:

**CONTRACT BETWEEN THE CITY OF PASCAGOULA, MISSISSIPPI  
AND  
SOUTHERN FINANCIAL SYSTEMS, INC.,  
FOR COLLECTION OF DELINQUENT FINES DUE TO  
THE CITY OF PASCAGOULA, MISSISSIPPI**

This contract is entered into as of the 1<sup>st</sup> day of June, 2011, between the City of Pascagoula, Mississippi, (“City”), and Southern Financial Systems, Inc., (“Collector”). As used herein, the word, “fines” shall include all fines, costs, assessments, and fees levied by the Municipal Court of the City.

RECITALS

WHEREAS, there are many delinquent and unpaid fines outstanding that have been levied by the Municipal Court of the City, which are in need of collection;

WHEREAS, The City of Pascagoula, Mississippi, wishes to contract with Southern Financial Systems, Inc., for collection of these delinquent fines of the City on a contingency basis; and

WHEREAS, Section 21-17-1, Mississippi Code of 1972, authorizes a municipality to employ an attorney or private collections agency to collect delinquent fines levied; and

WHEREAS, Section 21-17-1, Mississippi Code of 1972, amendment effective July 2001, there shall be due the City from any person whose delinquent payment is collected, a surcharge, in addition to the delinquent payment of not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state and not to exceed fifty percent (50%) of the delinquent payment for collection made outside of this state.

WHEREAS, the Collector has offered to collect unpaid and delinquent fines of the City;

NOW, THEREFORE, the City and the Collector contract and agree as follows:

1. The term of this contract shall be for the period beginning June 1, 2011, and ending May 31, 2012. It is in effect for one year from its effective date. The City of Pascagoula shall have the option to renew it on successive one (1) year terms. With or without cause, either party hereto may terminate this contract upon sixty days written notice. If the contract is so terminated, the Collector shall be paid its fees for any money collected to the date of termination.
2. The Collector agrees to collect such delinquent fines as may be assigned by the City.
3. Payment for delinquent fines on accounts assigned to the Collector may be received by the City at the Pascagoula Police Station or at the office of the Collector. The Collector shall be entitled to the collection fee prescribed, herein, whether payment is made at the Police Station or at the office of the Collector.
4. The Collector shall be paid a fee of twenty-five percent (25%) of all monies collected on accounts assigned to the Collector.
5. Each month the Collector shall remit to the City all monies collected by the Collector during the month by the 10<sup>th</sup> of the following month. Thereafter on a monthly basis the City shall pay to the Collector the contingency fee of all monies collected on accounts assigned to the Collector whether payment was received by the Collector or was received by the City at the Police Station.
6. When the money is collected on accounts assigned to the Collector, whether at the Office of the Collector or the Police Station, a receipt shall be issued showing the name of the responsible party, the case number or reference number for which payment is made, the date, amount paid, and person giving the payment.

7. When a remittance is made by the City to the Collector or by the Collector to the City such remittance shall be accompanied by an itemized statement thereof.
8. Neither, the City, nor any officer or employee thereof, shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of the Collector.
9. The entire amount of all delinquent accounts collected by the Collector shall be remitted to the City and shall not be reduced by any collection fees.
10. The Collector shall, on a monthly basis, submit to the City an itemized claim for its fees for consideration for payment by the City Council. The City agrees to remit commissions owed to the Collector within 5 days of the City Council meeting approving disbursement of funds.
11. The parties agree that they shall abide by the terms of Section 21-17-1, Mississippi Code of 1972; Circular No. 12 promulgated by the State Auditor's Office and any amendments thereto; the Federal Fair Debt Collection Practices Act (if applicable); and any state law dealing with the collection of debts.
12. The Collector may only file civil actions to collect delinquent accounts if authorized by the City, acting through proper authority, under such conditions the City may require.
13. The Collector shall give a surety bond issued by a company qualified to issue such bonds in Mississippi, in the amount of at least \$20,000.00, a copy of which shall be filed with the City of Pascagoula.
14. The City shall have the right to examine the Collector's records pertaining to the accounts assigned to it by the City during regular business hours on at least 24 hours advance notice.

15. The City will make the best efforts to assure that all accounts forwarded to Collector are valid and legally enforceable debts and that City agrees to provide, whenever requested to do so by Collector, a written verification of the account or copy of the judgment, if any, of which the claim is based.
16. The Collector and City acknowledge that Southern Financial Systems, Inc. has taken over all accounts previously assigned by the City to Advantage Collections through a statutory merger between Southern Financial Systems, Inc. and Advantage Collections in August 2005, and all servicing of those previous accounts will be performed according to the terms of this new agreement by Southern Financial Systems, Inc.

Signed by the parties as of the date noted above.

CITY OF PASCAGOULA, MISSISSIPPI

By: \_\_\_\_\_  
CITY MANAGER

ATTEST:

\_\_\_\_\_  
CITY CLERK

SOUTHERN FINANCIAL SYSTEMS, INC.

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

Councilman Stallworth made a motion to renew the contract with Southern Financial Systems, Inc. for the collection of delinquent court fines at the Police Department as recommended and authorize the City Manager to execute the related documents. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

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The next item for consideration was to approve Change Order No. 3 with Graham Construction Co., Inc. for the Chipley water/sewer project for an addition of \$16,579.76 and an adjustment of time to incorporate drainage upgrades based on remaining grant funding, as recommended by Jaci Turner, Program Manager, and Compton Engineering, Inc.

Councilman Stallworth made a motion to approve Change Order No. 3 with Graham Construction Co., Inc. for the Chipley water/sewer project for an additional amount of \$16,579.76 and an adjustment of time to incorporate drainage upgrades based on remaining grant funding as recommended and authorize the City Manager to execute the related documents. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

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The next item for consideration was a request to approve closeout documents for the Shortcut Road Sewer S31 Project with Jay Bearden Construction Co., Inc., Richland, MS, and approve final Summary Change Order No. 2 for an increase of \$183,733.88 and an additional 197 days, approve the final pay application in the amount of \$236,800.42, authorize a manual check, and authorize the City Manager to execute the documents, as recommended by Jaci Turner, Program Manager, and Compton Engineering, Inc.

Councilman Stallworth made a motion to approve the closeout documents for the Shortcut Road Sewer S31 Project with Jay Bearden Construction Co., Inc., approve final summary Change Order No. 2 for an increase of \$183,733.88 and an additional 197 days, approve final pay application in the amount of \$236,800.42, authorize a manual check, and authorize the City Manager to execute the documents as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

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The next item for consideration was to approve advertising the resources of the City for \$250.00 through the Pascagoula Dixie Boys Baseball All-Star Team (13 year old), Mississippi State Champions, as they travel to Seneca, South Carolina, on July 29, 2011, to participate in the World Series, and issue a manual check, as recommended by Eddie Williams, City Attorney. The City is given legal authority to provide support to this group by Section 17-3-1, MS Code of 1972.

Councilman Stallworth made a motion to approve advertising the resources of the City for \$250.00 through the Pascagoula Dixie Boys Baseball All-Star Team (13 year old), Mississippi State Champions, as they travel to Seneca, South Carolina, on July 29, 2011, to participate in the World Series, and issue a manual check as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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Financial reports for the month of June 2011 were filed by the City Clerk and acknowledged by the City Council.

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**The following new business items were considered at this time.**

The first item for consideration was a request to authorize the Mayor to submit a letter to the Mississippi Development Authority regarding the qualifications of the Pascagoula Redevelopment Authority as a community based development organization as recommended by Harry Schmidt, Community and Economic Development Director. The letter is spread on the minutes as follows:

July 20, 2011

Mr. Jon Mabry  
Chief Operations Officer, Disaster Recovery Division  
Mississippi Development Authority  
Post Office Box 849  
Jackson, Mississippi 39205

Re: Pascagoula Redevelopment Authority

Dear Mr. Mabry:

I am writing to you on behalf of the City of Pascagoula to request a written determination from the Mississippi Development Authority (MDA) to the effect that the Pascagoula Redevelopment Authority (PRA) is a qualified Community Based Development Organization (CBDO). It is my intent, in making this request, to follow through with your agency on the phone conference that was recently conducted with you, HUD officials in Washington, DC, and counsel for the City of Pascagoula.

The PRA is an Urban Renewal Agency that was established pursuant to the Urban Renewal Law by resolution of the City Council of the City of Pascagoula passed on the 1<sup>st</sup> day of February, 2011. A certified copy of that resolution is enclosed for your convenience. Pursuant to that resolution, the City Council established a five-member Board of Directors

for the PRA with a mandate to indulge its best efforts in seeking the redevelopment of slum and blighted areas within the City of Pascagoula and in accordance with the City's Urban Renewal Plan. A copy of that plan is also enclosed for your convenience.

As such, the PRA is constituted as a governmental entity, is a non-profit organization and can avail itself of the City's tax exempt status. The City proposes to convey to this agency certain parcels of property that were acquired by the City using Community Development Block Grant funds and which once constituted blighted and slum areas within the City.

More particularly, the City has been engaged in the redevelopment of its "River Front Property" (which was acquired using the CDBG funds) by eliminating an abandoned cannery, restoring bulkheads, building a parking garage and providing necessary infrastructure for the location of businesses along the water front in the City of Pascagoula.

Additionally, the City used CDBG funds to acquire certain property known as the "Live Oak Street Property" which consisted of an abandoned low-rent housing community. The buildings within that community were substantially destroyed in several hurricanes over the years and, at the time of acquisition by the City, had been abandoned for quite some time and presented the City with a serious problem inasmuch as the abandoned apartment units were being used by homeless individuals and for criminal activity. Those units have now been completely demolished and the City has built on a portion of this property a new Senior Center for its elderly residents. The City has received a number of inquiries from potential developers concerning the use of the balance of the property.

The PRA was established as a more flexible and convenient agency for redevelopment of these blighted properties and the carrying out of the national objective of reducing slum and blight throughout the City. The City anticipates transferring the aforementioned properties to the PRA at no cost after conducting the appropriate public hearings for that purpose. The PRA will then be in a position to continue with the redevelopment efforts in these areas and procurement of potential businesses at the respective sites.

Based on the conversations that were had recently with your agency and the HUD representative in Washington, it is my understanding that it will be necessary for the PRA to qualify as a Community Based Development Organization in order for these transfers to be effected at no cost. Inasmuch as the PRA is devoted to a national objective, is a non-profit organization and enjoys tax exempt status due to its governmental function, it is the City's opinion that the PRA should in fact qualify as a CBDO. Consequently, I respectfully request a written determination by your agency to this effect.

Your prompt consideration of this request will be appreciated.

Sincerely,

Robert H. Maxwell  
Mayor

Enclosures

Councilman Corder made a motion to authorize the Mayor to execute a letter for submission to the Mississippi Development Authority regarding the Pascagoula Redevelopment Authority as recommended. The motion was seconded by Councilman Abston and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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(Mayor Maxwell left the meeting at 6:45 p.m.)

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Harry Schmidt, Community and Economic Development Director, requested approval of a letter to Hilton Worldwide regarding the LaFont Inn Redevelopment Project and its developer, WWT Enterprises, LLC. After discussion, the Council recommended a change in wording in the last paragraph from "investor" to "partner".

Councilman Tillman made a motion to authorize Mayor Pro Tem Joe Abston to submit a letter to Hilton Worldwide regarding the LaFont Inn Redevelopment Project and its developer, WWT Enterprises, LLC, with the change in wording in the last paragraph from "investor" to "partner" as recommended. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell "ABSENT". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

The letter is spread on the minutes as follows:

July 19, 2011

Glenn Goerke  
Senior Director  
Franchise Development  
Hilton Worldwide  
755 Crossover Lane  
Memphis, TN 38117

**Re: La Font Inn Redevelopment Project, Pascagoula, Mississippi**

Dear Mr. Goerke:

The City of Pascagoula is excited that WWT Enterprises, LLC, has taken on the task of redeveloping the La Font Inn site. Equally exciting is the fact that Hilton Garden Inn will be locating on the site.

The intersection of Hospital Road and US Highway 90 (Denny Avenue) is a critical intersection for the City of Pascagoula. It is the most valuable development site along the City's busiest commercial corridor. While Pascagoula boasts of an abundance of jobs and recreational opportunities, repeated market studies show a lack of dining establishments. This intersection and the proximity to Hilton Garden Inn make this corner the most likely site for potential restaurant development.

The City strongly urges Hilton to consider locating its hotel to the rear of the property to allow for the development of complimentary dining establishments on the front parcels. It is our intent that the City Planning staff and the developer will ensure that these establishments will only strengthen the aesthetic appearance of the hotel and will provide for a complimentary amenity for guests of the hotel. The City understands Hilton's desire to approve of the particular franchise located on these outparcels, and the City is confident that suitable dining establishments will locate at this site.

As a partner in the financing of this project, the City of Pascagoula looks forward to a long and successful relationship with Hilton. I hope that your committee will seriously consider the City's desire to see that this entire development site be used for its highest and best purpose. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Joe Abston  
Mayor Pro Tem

cc: Stephen H. Crabill

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The next item for consideration was a Professional Services Agreement with Heidelberg, Steinberger, Colmer & Burrow, P.A., Pascagoula, MS, for legal services associated with the Hospital Road/Highway 90 Redevelopment Project as recommended by Jaci Turner, Program Manager.

**CONTRACT AND AGREEMENT FOR LEGAL SERVICES  
FOR PROJECT R-103-290-01-KED**

**THIS CONTRACT AND AGREEMENT** is made and entered into by and between the **City of Pascagoula, Mississippi** (hereinafter the "City") and **Heidelberg, Steinberger, Colmer & Burrow, P.A.**, (hereinafter the "Attorney") on the day and year hereinafter written.

1. Purpose:

The purpose of this Contract is for the Attorney to provide Legal Services associated with the Highway 90/Hospital Road Infrastructure Redevelopment Project funded through the Katrina Supplemental Community Development Block Grant program to the City.

## 2. Statement of Work:

For the consideration referred to in Paragraph 5, the Attorney shall provide the City with:

General Legal Services as required by the City related to the implementation of the Highway 90/Hospital Road Infrastructure Redevelopment Project funded through the Katrina Supplemental Community Development Block Grant Program Grant Agreement, in accordance with all applicable or required state and federal laws and regulations. Legal Services shall include but not be limited to consultation services, evaluation of professional contracts, and other related legal work and includes the following list of duties, but said list is not necessarily inclusive of all duties:

- (1) Review or draft ordinances, contracts, resolutions, interlocal agreements and other legal documents as requested by the City;
- (2) Represent the City in all lawsuits and other contested proceedings regarding this Project;
- (3) Approve legal documents as to proper form and content;
- (4) Advise the City, its Council and City staff members with regard to legal matters relating to this Project;
- (5) Consult with and advise the City, its Board and City staff members if requested by telephone, in person and/or by written memo on project business;
- (6) Be available on an as-needed basis to discuss with citizens legal matters affecting the City and respond to citizen inquiries, in person, writing or by telephone, involving this Project;
- (7) Attend all work sessions and meetings regarding this Project when required by the Council;
- (8) Perform any and all necessary title work, including title searches, on parcels as requested by the City;
- (9) Prepare title opinions on each parcel as requested by the City;
- (10) Prepare documentation on each parcel necessary for conveyance, release, etc., as requested by the City;
- (11) Perform curative work to clear title to property as necessary;
- (12) Represent the City in any condemnation suit involving this project brought in the Special Court of Eminent Domain;
- (13) Prepare final certifications of completed acquisition to allow "letting" of project construction as necessary regarding this Project; and
- (14) Perform such other duties as are necessary and appropriate in order to provide the City with legal representation regarding this Project.

This Contract and Agreement for Legal Services shall be inclusive of all of the above and compensation to be paid for said work under the amended contract shall be based on an hourly rate of \$ 250.00 for attorneys. Time devoted by paralegals that may be expected to work on this matter is currently charged at \$70.00 per hour. In addition to legal services, any filing fees, discovery costs, expert witness fees, court and jury costs, copying costs, computer-aided research

including associated phone charges, and similar expense items will be billed as out-of-pocket expenses.

### 3. Mississippi Development Authority (MDA) Approval:

The City and the Attorney acknowledge this Contract shall not become effective or enforceable until approval of the grant agreement by the Mississippi Development Authority (MDA).

### 4. Changes:

The City or Attorney may, from time to time, request changes in the terms of this Agreement. Such changes, including any increase or decrease in the amount of compensation due to the Attorney, shall be mutually agreed upon by the parties hereto and shall be incorporated in written amendments to this Contract.

### 5. Consideration and Payment:

a. Consideration: The Attorney agrees to furnish General Legal Services as required by the City pursuant to the Scope as described hereinabove. It is anticipated that the total compensation for all General Legal Services under this Contract shall not exceed \$10,000.00, but it is understood that this is a time billed contract for services requested, and the amount of services can vary depending upon what is required. This amount will be exceeded only after a review of any increase in the services or the scope of services to be rendered or as a result of complications or extra time incurred for services requested and upon mutual amendment hereof and the subsequent approval of the MDA.

b. Payment: It is expressly understood and agreed that all compensation to be paid under this Contract comes from the Katrina Supplemental Community Development Block Grant awarded the City by the Mississippi Development Authority pursuant to the Grant Agreement, and that no payment to the Attorney, for legal services on this project, will be made until funds are received by the City from the MDA.

### 6. Termination by City:

The City may terminate the Contract at any time by giving written notice to the Attorney of such termination and specifying the effective date thereof. In that event, all finished documents or unfinished documents and other materials which would normally be furnished to the City shall, at the option of the City, become its property. If the Attorney is terminated by the City as provided herein, the Attorney shall be paid for all work completed up to the termination date.

### 7. Termination by Attorney:

The Attorney may terminate this Contract at any time by giving written notice to the City of such termination and specifying the effective date thereof. In the event of termination, all materials as described above shall become the property of the City. The Attorney shall be paid for all work completed up to the termination date.

### 8. Equal Employment Opportunity:

The Attorney understands that the City of Pascagoula is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, State, or local laws. All such discrimination is unlawful and the Attorney agrees during the term of this Contract the Attorney will strictly adhere to this policy in its employment practices and provision of services. The Attorney shall comply with, and all activities under this Contract shall be subject to all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified. The Attorney shall ensure that any person assigned to perform services hereunder meets the employment eligibility requirements of the immigration and naturalization laws including but not limited to the Immigration Reform and Control Act of 1986.

9. Interest of Members of the City and Others:

- a. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any function or responsibilities in connection with the planning or carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Attorney shall take appropriate steps to assure compliance.
- b. No member of the governing body of the City and no other public official of such City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and the Attorney shall take appropriate steps to assure compliance.

10. Interest of Attorney:

The Attorney shall disclose and notify the City of any interest in land and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Attorney further covenants that in the performance of this Contract, no person having any such interest shall be employed.

11. Findings Confidential:

Any reports, information, data, etc. given to or prepared or assembled by the Attorney under this Contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Attorney without prior written approval of the City.

12. Audits and Inspections:

- a. The City, the Mississippi Development Authority, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Attorney which are directly pertinent to that specific Contract, for the purpose of making audit, examination, excerpts, and transcriptions.
- b. The Attorney is required to maintain all required records for three (3) years after the City makes final payments and all other pending matters are closed.

13. Miscellaneous Provisions:

This Contract shall be governed by and construed in accordance with the laws of the State of Mississippi and all obligations of the parties created hereunder are perform able in the County in which the City is located. Any litigation with respect thereto shall be brought in the courts of the state. In case one or more of the provisions in the Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The Attorney shall comply with applicable federal, state and local laws and regulations. The Attorney hereby agrees to, and includes herein by reference, the “Special Provisions and Regulations Stipulated By the U.S. Department of Housing And Urban Development (HUD) Community Development Block Grant (CDBG) Program”, a copy of which is attached as Exhibit “A” to be supplied by the Grant Administrator and incorporated by reference.

WITNESS the signatures on this the \_\_\_\_ day of \_\_\_\_\_, 2011.

BY: \_\_\_\_\_  
**James H. Heidelberg, Esq.**  
HEIDELBERG, STEINBERGER,  
COLMER & BURROW, P.A.  
711 DELMAS AVENUE  
PASCAGOULA, MS 39567

BY: \_\_\_\_\_  
**Joseph R. Huffman,**  
**City Manager**  
CITY OF PASCAGOULA  
603 WATTS AVENUE  
PASCAGOULA, MS 39567

ATTEST:  
\_\_\_\_\_

ATTEST:  
\_\_\_\_\_

**EXHIBIT “A”**

**SPECIAL PROVISIONS AND REGULATIONS  
STIPULATED BY  
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

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

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

The Contracted Party agrees to allow the Grantee, State of Mississippi, HUD, the Comptroller General of the United States, and any of their duly authorized representatives access to any

books, documents, papers, and records of the Contracted Party which are directly pertinent to the CDBG Program for the purpose of making audits, examinations, excerpts, and transcriptions.

## **2. Termination of Contract For Cause**

If, through any cause, the Contracted Party shall fail to fulfill in timely and proper manner, his obligations under this Contract, or if the Engineer shall violate any of the covenants, agreements, or stipulations of this Contract, the Grantee shall thereupon have the right to terminate this Contract by giving written notice to the Contracted Party of such termination and specifying the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contracted Party shall entitle the Contracted Party's receipt of just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the above, the Contracted Party shall not be relieved of liability to the Grantee for damages sustained or the Grantee by virtue of any breach of the Contract by the Contracted Party. The Owner may withhold any payments to the Contracted Party for the purpose of set off until such time as the exact amount of damages due the Grantee from the Contracted Party is determined.

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

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

## **4. Records**

The subrecipient shall maintain all records required by the federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this agreement.

Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

- e. Records documenting compliance with the equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR 570.502 and 24 CFR 84.21-28; and,
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570. All records required to be kept on the project shall be maintained for at least three years after final payments and until all other pending matters under the grant are closed.

## **5. Health and Safety Standards**

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

## **6. Environmental Compliance**

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

## **7. Energy Efficiency**

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

## **8. Changes**

The Grantee may, from time to time, request changes in the scope of the services of the Contracted Party to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contracted Party's compensation which are mutually agreed upon by and between the Grantee and the Contracted Party, shall be incorporated in written amendments to this Contract. The project timeline may be amended with prior approval of the Mississippi Development Authority (MDA).

## **9. Personnel**

The Contracted Party represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Grantee. All the services required hereunder will be performed by the Contracted Party or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

#### **10. Anti-Kickback Rules**

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

#### **11. Withholding of Salaries**

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

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

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

#### **13. Equal Employment Opportunity**

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

#### **14. Anti-Discrimination Clauses**

The Contracted Party will comply with the following clauses:

1. Title VI of the Civil Rights Act of 1964 (PL 88-352), and the regulations issued pursuant thereto (24 CFR 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits;

2. Title VIII of the Civil Rights Act of 1968 (PL 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and taking action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services; and,

3. Executive Order 11063, as amended by Executive Order 12259, on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance Section 109 of the Housing and Community Development Act of 1974, as amended which requires that no person in the United States shall on the grounds of race, color, national origin, or gender be excluded from participation in, be denied the benefits or be subjected to discrimination under, any program or activities funded in whole or in part with community development funds made available pursuant to the Act. Section 109 further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 796) shall also apply to any such program or activity.

### **15. Section 3 Clause**

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

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

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

### **17. Compliance with Local Laws**

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

party represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act (Senate Bill 2988 from the 2008 Regular Legislative Session) and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the EVerify Program. Subrecipient /Contractor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State. Subrecipient/Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Subrecipient/Contractor understands and agrees that any breach of these warranties may subject Subrecipient/Contractor to the following:

- (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or
- (b) the loss of any license, permit, certification or other document granted to Subrecipient/Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or
- (c) both. In the event of such termination/cancellation, Subrecipient/Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

## **18. Subcontracting**

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

## **19. Assignability**

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

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

The Contracted Party agrees to establish safeguards to prohibit employees from using positions for a purpose that is or give the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie. The Contracted Party will comply with Section 25-4-105, Mississippi Code Annotated (1972), which prohibits any public servant from using his official position to obtain pecuniary benefits for

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

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

### **21. Interest of Certain Federal Officers**

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

### **22. Interest of Contractor**

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

### **23. Political Activity**

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

### **24. Davis-Bacon Act Requirements**

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

### **25. Uniform Act Requirements**

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

## **26. Lead-Based Paint Requirements**

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

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

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

## **28. Flood Insurance Purchase Requirements**

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

## **29. Historic Preservation**

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

## **30. Program Monitoring**

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

## **31. Discrimination Due to Beliefs**

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

## **32. Confidential Findings**

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

### **33. Third-Party Contracts**

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

1. Each such Participating Party keeps and maintains books, records, and other documents relating directly to the receipt and disbursement of such grant funds; and,
2. Any duly authorized representative of the Mississippi Development Authority, the U.S. Department of Housing and Urban Development, and the Comptroller General of the United States shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of such Participating Party until the completion of all close-out procedures respecting this grant and the final settlement and conclusion of all issues arising out of this grant. The Grantee shall include in all contracts with Participating Parties a provision that each Participating Party agrees that any duly authorized representative of the Mississippi Development Authority, the U.S. Department of Housing and Urban Development, and the Comptroller General of the United States shall, at all reasonable times, have access to any portion of the Project in which such Participating Party is involved until the completion of all close-out procedures respecting this grant.

### **34. Excessive Force**

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

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

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

### **36. Environmental**

The applicant will:

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

and Urban Development pursuant to Section 104(f) of the Housing and Community Development Act of 1974, as amended, and published in 24 CFR Part 58.

Its chief executive officer or other officer of applicant:

(1) Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58; and

(2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibilities as such an official. It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archeological and Historic Data Act of 1966 (16 U.S.C. 469 a-1, et seq) by:

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

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

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

(1) Focusing attention on the environment and health conditions in minority and low income communities; and

(2) Fostering non-discrimination in federal programs that substantially affect human health and the environment; and

(3) Providing minority and low-income communities with access to information on, and opportunities for public participation in, matters relating to human health and the environment.

### **37. Uniform Relocation**

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

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

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

### **39. Hatch Act**

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

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

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

#### **41. Use of Influence**

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

(1) No federally appropriated funds have been paid or will be paid, by or on behalf of the chief elected official, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the chief elected official shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

#### **42. Cost Overruns**

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

Councilman Corder made a motion to approve the Professional Services Agreement with Heidelberg, Steinberger, Colmer & Burrow, P.A., as recommended and authorize the City Manager to execute the related documents. The motion was seconded by Councilman Stallworth and received the following vote: Mayor Maxwell "ABSENT". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

\*\*\*\*\*

Next for consideration was a Professional Services Agreement with Gouras & Associates, LLC, for administrative services associated with the Hospital Road/Highway 90 Redevelopment Project as recommended by Jaci Turner, Program Manager.

**AGREEMENT  
CONSULTING SERVICES  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
LA FONT INN REDEVELOPMENT PROJECT  
CDBG # R-103-290-01-KED**

**THIS AGREEMENT** is entered into this the \_\_\_\_\_ day of July, 2011, by and between Gouras & Associates, LLC, herein called the "Consultant", and the City of Pascagoula, Mississippi, herein called the "City".

**WITNESSETH THAT:**

**WHEREAS**, the City applied for and received a Katrina Supplemental Community Development Block Grant for Economic Development, Project Number **R-103-290-01-KED** of the redevelopment of the La Font Inn and associated development, under Title I of the Housing and Community Development Act of 1974, as amended; and

**WHEREAS**, the City obtained application preparation assistance and needs subsequent administrative assistance in implementing this Katrina Supplemental Community Development Block Grant for Economic Development, Project Number **R-103-290-01-KED**; and

**WHEREAS**, the City desires to engage the Consultant to render certain technical and professional services hereinafter described in connection with the application preparation and subsequent implementation of the Katrina Supplemental Community Development Block Grant for Grant for Economic Development, Project Number **R-103-290-01-KED**, and the Consultant desires to provide said services; and

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

**TITLE I  
EMPLOYMENT OF CONSULTANT**

The City hereby agrees to employ the Consultant, and the Consultant hereby agrees to perform services set forth hereinafter in connection with the City's Community Development Block Grant Program which is to be financed by grant funds provided by HUD to the State of Mississippi under Title I of the Housing and Community Development Act of 1974, as amended.

**TITLE II  
SCOPE OF SERVICES**

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

**A. Application Preparation**

**B. General Services**

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

- a. Citizen Participation
- b. Environmental
- c. Labor Standards
- d. Acquisition
- e. Relocation
- f. Procurement
- g. Financial Management
- h. Other Resources
- i. Equal Opportunity
- j. General Correspondence

**C. The Consultant shall be responsible for:**

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

**D. Close-Out Project**

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

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

**TITLE III  
DISPOSITION OF WORK MATERIALS**

All contract documents and similar work materials prepared by the Consultant in completing the scope of services set forth herein shall be the property of the City.

**TITLE IV  
TIME OF PERFORMANCE**

The services provided under this Agreement by the Consultant shall continue as long as is mutually agreeable to the parties hereto or until the project is closed out. The terms of the Agreement, specifically the "Scope of Services" and "Compensation" to the Consultant can, however, be reviewed annually and modified as is mutually agreeable to the two parties.

**TITLE V  
PERSONNEL**

The Consultant represents that he has, or will secure at his own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

All of the services required hereunder will be performed by the Consultant or under his supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under the State, Federal, and Local law to perform such services.

**TITLE VI  
TERMINATION FOR CONVENIENCE OF THE CITY**

The City may terminate this Contract at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof. Such written notice shall be furnished the Consultant at least thirty (30) days before the effective date of termination. In the event all finished or unfinished documents and other materials as described above shall, at the option of the City become its property. If the Contract is terminated by the City as provided herein, the Consultant shall be paid for all work completed up to the termination date.

**TITLE VII  
TERMINATION FOR CONVENIENCE OF CONSULTANT**

The Consultant may terminate this Contract at any time by giving written notice to the City of such termination and specifying the effective date thereof. Such written notice shall be furnished the City at least thirty (30) days before the effective date of termination. In the event of termination, all materials as described above shall become the property of the City. The Consultant shall be paid for all work completed up to the termination date.

**TITLE VIII  
CHANGES**

The City or Consultant may, from time to time, request changes in the terms of this Agreement. Such changes, including any increase or decrease in the amount of compensation due to the Consultant, shall be mutually agreed upon by the parties hereto and shall be incorporated in written amendments to this Contract.

**TITLE IX  
COMPENSATION DUE TO CONSULTANT  
and  
METHOD OF PAYMENT**

The City agrees to pay the Consultant according to the fee schedule below. Services pertaining to application preparation will be paid as a lump sum according to application guidelines as prescribed by MDA. The Consultant will then be billed for all services rendered pertaining to administration and implementation of the Katrina Supplemental Community Development Block Grant on a monthly pro rata basis during construction of the project. It is estimated that the construction time for this project is nine (9) months. No construction activities may begin or construction phase funds be requested and drawn down until the City has been issued a grant agreement:

1. Application Preparation

\$10,000

2. Beginning with the first month following the Execution of the Contract for the construction of the project, the Consultant will submit monthly invoices in the amount of \$7,853.22 for services rendered as outlined in items A, B, and C in the Scope of Services. Invoices will be submitted for nine (9) consecutive months.

\$70,679

4. Retainage for acceptance and approval of close-out documents by the Mississippi Development Authority.

\$2,500

**TOTAL COMPENSATION** **\$83,179**

**TITLE X  
EQUAL EMPLOYMENT OPPORTUNITY**

The Consultant will not discriminate against any employee or applicant for employment because of race, religion, sex, color, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin.

**TITLE XI  
INTEREST OF MEMBERS OF THE CITY AND OTHERS**

No officer, member, or employee of the City and no member of its governing body, and no other public official of the governing body, the locality or localities in which the Project is situated or being carried out who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of the project, shall participate in any decision relating to this Contract which affects his personal association in which he is, directly or indirectly, interested or have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

**TITLE XII  
ASSIGNABILITY**

The Consultant shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or notation) without prior written consent of the City thereto; provided, however, that claims for money due or to become due the Consultant from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

**TITLE XIII  
INTEREST OF CONSULTANT**

The Consultant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be

performed under this Contract. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

**TITLE XIV  
FINDINGS CONFIDENTIAL**

Any reports, information, data, etc., given to or prepared or assembled by the Consultant under this Contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Consultant without prior written approval of the City.

**TITLE XV  
OFFICIALS NOT TO BENEFIT**

No members of or delegate to the Congress of the United States of America and no Resident Commissioner shall be admitted to any share or part hereof or to any benefit to arise herefrom.

The Consultant is advised that no member, officer, or employee of the local public body or its designers or agents, no member of the governing body of the locality in which the project is situated, and no other public officials of such locality or localities who exercise any functions or responsibilities with respect to the project during their tenure or for one year thereafter, shall have any interest, direct or indirect in the contract or subcontract, or the proceeds thereof for work to be performed in connection with the project.

**TITLE XVI  
AUDITS AND INSPECTIONS**

The Consultant shall keep and maintain books, records, and other documents relating to the receipt and disbursement of such grant funds; and any duly authorized representative of the Mississippi Development Authority, Community Services Division, the City, HUD, and/or the Comptroller General of the United States shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other project documents until the completion of all close-out procedures respecting this grant and the final settlement and conclusion of all issues arising out of this grant. Records shall be retained for three (3) years after project closeout.

The Consultant agrees that any duly authorized representative of the Mississippi Development Authority, the City, HUD, and/or the Comptroller General of the United States shall, at all reasonable times, have access to any portion of the project in which the Consultant is involved until the completion of all close-out procedures respecting this grant.

**TITLE XVII  
REMEDIES**

Except as may be otherwise provided in this Agreement, all claims, counterclaims, disputes, and other matters in question between the City and Consultant arising out of or relating to this Agreement or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

**TITLE XVIII  
CITY'S RESPONSIBILITIES**

Provide full information to the Consultant as to his requirements for the Project. Pay all costs incidental to obtaining bids or proposals from contractors. Provide such legal, accounting, independent costs estimating and insurance counseling services as may be required for the Project.

**TITLE XIX  
PUBLICATION, REPRODUCTION, AND USE OF MATERIAL**

No material produced in whole or in part under this Agreement shall be subject to copy right in the United States or in any other country. The City and the State of Mississippi and the Department of Housing and Urban Development shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any report, data, or other materials prepared under this Agreement.

**TITLE XX  
FEDERAL AND STATE GUIDELINES**

The Consultant does hereby bind itself, certified and gives its assurance that it will comply with all requirements of the grantor agency, as they relate to the application, acceptance and use of federal funds for the federally and state assisted projects in accordance with special provisions attached as Exhibit A.

**TITLE XXI  
SECTION 504 HANDICAPPED**

The Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

**TITLE XXII  
SUCCESSORS AND ASSIGNS**

The City and Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns, or such other party, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Consultant.

**TITLE XXIII  
MISCELLANEOUS PROVISIONS**

This Agreement shall be construed as in accordance with the laws of the State of Mississippi and all obligations of the parties created hereunder are performable in the City.

In case one or more of the provisions in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other

provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**IN WITNESS WHEREOF**, the City and the Consultant have executed this Agreement this the \_\_\_\_\_ day of July, 2011.

**WITNESS:**

**CITY OF PASCAGOULA, MISSISSIPPI**

\_\_\_\_\_  
**Joseph R. Huffman, City Manager**

**WITNESS:**

**GOURAS & ASSOCIATES, LLC**

\_\_\_\_\_  
**Chris G. Gouras, Jr., Manager**

**SPECIAL PROVISIONS AND REGULATIONS  
STIPULATED BY  
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

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

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

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

**2. Termination of Contract For Cause**

If, through any cause, the Contracted Party shall fail to fulfill in timely and proper manner, his obligations under this Contract, or if the Engineer shall violate any of the covenants, agreements, or stipulations of this Contract, the Grantee shall thereupon have the right to terminate this Contract by giving written notice to the Contracted Party of such termination and specifying the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contracted Party shall entitle the Contracted Party's receipt of just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the above, the Contracted Party shall not be relieved of liability to the Grantee for damages sustained or the Grantee by virtue of any breach of the Contract by the Contracted Party. The Owner may withhold any payments to the Contracted Party for the purpose of set off until such time as the exact amount of damages due the Grantee from the Contracted Party is determined.

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

The Grantee may terminate this Contract any time by a notice in writing from the Grantee to the Contracted Party. If the Contract is terminated by the Owner as provided herein, the Contracted

Party will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contracted Party covered by this Contract, less payments of compensation previously made provided that if less than sixty percent of the services covered by this Contract have been performed upon the effective date of such termination, the Contracted Party shall be reimbursed (in addition to the above payment) for that portion of actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Contracted Party during the Contract period which are directly attributable to the incomplete portion of the services covered by this Contract.

#### **4. Records**

The subrecipient shall maintain all records required by the federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this agreement.

Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR 570.502 and 24 CFR 84.21-28; and,
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570. All records required to be kept on the project shall be maintained for at least three years after final payments and until all other pending matters under the grant are closed.

#### **5. Health and Safety Standards**

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

#### **6. Environmental Compliance**

Contracts, subcontracts, and subgrants of amounts in excess of \$100,000.00 shall contain a

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

## **7. Energy Efficiency**

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

## **8. Changes**

The Grantee may, from time to time, request changes in the scope of the services of the Contracted Party to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contracted Party's compensation which are mutually agreed upon by and between the Grantee and the Contracted Party, shall be incorporated in written amendments to this Contract. The project timeline may be amended with prior approval of the Mississippi Development Authority (MDA).

## **9. Personnel**

The Contracted Party represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Grantee. All the services required hereunder will be performed by the Contracted Party or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

## **10. Anti-Kickback Rules**

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

## **11. Withholding of Salaries**

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

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

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

## **13. Equal Employment Opportunity**

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

## **14. Anti-Discrimination Clauses**

The Contracted Party will comply with the following clauses:

1. Title VI of the Civil Rights Act of 1964 (PL 88-352), and the regulations issued pursuant thereto (24 CFR 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits;

2. Title VIII of the Civil Rights Act of 1968 (PL 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and taking action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services; and,

3. Executive Order 11063, as amended by Executive Order 12259, on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance Section 109 of the Housing and Community Development Act of 1974, as amended which requires that no person in the United States shall on the grounds of race, color, national origin, or gender be excluded from participation in, be denied the benefits or be subjected to discrimination under, any program or activities funded in whole or in part with community development funds made available pursuant to the Act. Section 109 further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 796) shall also apply to any such program or activity.

## **15. Section 3 Clause**

The Contracted Party will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 17010) requiring that to the greatest extent feasible, opportunities

for training and employment be given to lower income residents of the project area and contracts for work in connection with the project area be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

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

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

#### **17. Compliance with Local Laws**

The Contracted Party shall comply with all applicable laws, ordinances, and codes of the state and local governments, and shall commit no trespass on any public or private property in performing any of the work embraced by this Contract. The subrecipient and the contracted party represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act (Senate Bill 2988 from the 2008 Regular Legislative Session) and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the EVerify Program. Subrecipient /Contractor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State.

Subrecipient/Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Subrecipient/Contractor understands and agrees that any breach of these warranties may subject Subrecipient/Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Subrecipient/Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Subrecipient/Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

#### **18. Subcontracting**

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

#### **19. Assignability**

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

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

The Contracted Party agrees to establish safeguards to prohibit employees from using positions for a purpose that is or give the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie. The Contracted Party will comply with Section 25-4-105, Mississippi Code Annotated (1972), which prohibits any public servant from using his official position to obtain pecuniary benefits for himself other than compensation provided for by law or for any relative or business with which he is associated and which further provides that a public servant may not be interested, during the term for which he has been chosen, or within one (1) year thereafter, in any contract made or let by the governing authorities of such municipality for the construction or doing of any public work, or for the sale or purchase of any materials, supplies or property of any description, or for any other purpose whatsoever, or in any subcontract arising therefrom or connected therewith, or to receive, either directly or indirectly, any portion or share of any money or other thing paid for the construction or doing of any public work, or for the sale or purchase of any property, or upon any other contract made by the governing authorities of the municipality, or subcontract arising therefore or connected therewith. The Contracted Party will also be aware of and avoid any violation of Sections 25-4-117 and 25-4-119, Mississippi Code Annotated (1972), which prescribes a criminal penalty for any public servant convicted of a violation of this Ethics in Government section.

## **21. Interest of Certain Federal Officers**

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

## **22. Interest of Contractor**

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

## **23. Political Activity**

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

## **24. Davis-Bacon Act Requirements**

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

## **25. Uniform Act Requirements**

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

### **26. Lead-Based Paint Requirements**

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

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

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

### **28. Flood Insurance Purchase Requirements**

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

### **29. Historic Preservation**

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

### **30. Program Monitoring**

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

### **31. Discrimination Due to Beliefs**

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

### **32. Confidential Findings**

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

### **33. Third-Party Contracts**

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

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

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

#### **34. Excessive Force**

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

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

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

#### **36. Environmental**

The applicant will:

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

Its chief executive officer or other officer of applicant:

- (1) Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58; and

(2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibilities as such an official.

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

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

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

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

(1) Focusing attention on the environment and health conditions in minority and low income communities; and

(2) Fostering non-discrimination in federal programs that substantially affect human health and the environment; and

(3) Providing minority and low-income communities with access to information on, and opportunities for public participation in, matters relating to human health and the environment.

### **37. Uniform Relocation**

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

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

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

### **39. Hatch Act**

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

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

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

#### **41. Use of Influence**

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

(1) No federally appropriated funds have been paid or will be paid, by or on behalf of the chief elected official, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the chief elected official shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

#### **42. Cost Overruns**

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

Councilman Corder made a motion to approve the Professional Services Agreement with Gouras & Associates, LLC, for administrative services on the Hospital Road/Highway 90 Redevelopment Project as recommended and authorize the City Manager to execute the related documents. The motion was seconded by Councilman Stallworth and received the following vote: Mayor Maxwell "ABSENT". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

(A copy of the related documents is filed in the minute file of this meeting and incorporated herein by reference.)

(Mayor Maxwell returned to the meeting at 6:50 p.m.)

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A discussion was held at this time with the Corps of Engineers regarding the dunes on the new beach on Beach Boulevard. Jaci Turner, Program Manager, advised a meeting was held last week with the Corps of Engineers, and they may have some funding available to assist the City of Pascagoula with the sand problem. Dean Trawick, Civil PM, and Caree Kovacevich, biologist, with the Corps of Engineers were in attendance at tonight's meeting and recommended

building a series of dunes on the south side of the proposed promenade to help with the sand issue. They could be built about 15 ft. from the promenade line with 75 ft. plantings. A question and answer session followed.

At the conclusion of the question and answer session, Councilman Corder made a motion to approve the recommendation of the Corps of Engineers to build a series of sand dunes on the south side of the proposed promenade and to move forward with these efforts as recommended. The motion was seconded by Councilman Wolverton and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". (Approved 7-19-11)

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The next item for consideration was the Order for the docket of claims. Bobby Parker, City Clerk/Comptroller, advised that an incorrect amount for Mississippi Power Company needed to be changed from \$38,302.05 to \$88,620.35. The new total on the docket of claims would be \$1,777,246.74. The Order is spread on the minutes as follows:

**ORDER**

**WHEREAS**, the attached docket of claims for the period of July 1, 2011, through July 15, 2011, has been presented to the City Council for allowance and approval; and

**WHEREAS**, the below claim numbers 06-10-01, 06-24-02, and 06-03 have also been presented to the City Council for allowance and approval:

<u>June 10, 2011</u>		<u>Claim # 06-10-01</u>
010	General Fund	\$ 453,535.23
180	Code Enforcement Grant	3,672.42
400	Pascagoula Utilities	25,746.68
475	Transfer Station	11,125.11
480	Solid Waste Mgmt.	<u>500.29</u>
	Total	<u>\$ 494,579.73</u>
<u>June 24, 2011</u>		<u>Claim # 06-24-02</u>
010	General Fund	\$ 432,127.30
180	Code Enforcement Grant	4,052.36
400	Pascagoula Utilities	25,824.72
475	Transfer Station	11,163.98
480	Solid Waste Mgmt.	<u>555.89</u>

	Total	\$ <u>473,724.25</u>
<u>Miscellaneous Claim</u>		<u>Claim # 06-03</u>
1000	City Share FICA	\$ 48,115.41
1100	City Share Medicare	11,252.88
7000	City Share PERS	<u>93,392.08</u>
	Total	\$ <u>152,760.37</u>

**WHEREAS**, it appears that all of said claims are proper and should be allowed;

**NOW, THEREFORE, IT IS ORDERED** that all claims shown on said dockets are hereby allowed and approved for payment.

Councilman Wolverton made a motion to approve the Order for the docket of claims, as amended above. The motion was seconded by Councilman Stallworth and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. The Mayor then declared the Order adopted, as amended, on the 19th day of July, 2011.

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Bobby Parker, City Clerk/Comptroller, requested approval of two manual checks as follows:

Layne Christensen Company – for Pay Estimate #1 on the new Communy Street well - \$199,468.84

Teklinks – for equipment to implement our free downtown Wi-Fi network - \$75,391.76

Councilman Corder made a motion to approve a manual check to Layne Christensen Company for \$199,468.84 and to Teklinks for \$75,391.76 as recommended. The motion was seconded by Councilman Abston and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”. (Approved 7-19-11)

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Mayor Maxwell announced the Ingalls Shipbuilding transfer of The Point property to the City of Pascagoula is scheduled for Thursday, July 21, 2011, at 1:30 p.m. at the west end of Beach Boulevard. He encouraged the Council to attend this milestone event.

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Councilman Wolverton made a motion to close the meeting to consider going into executive session. The motion was seconded by Councilman Corder and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”.

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Councilman Abston made a motion to go into executive session for the purpose of discussing litigation matters regarding a settlement of claims with Singing River Health Systems and Rolls-Royce Naval Marine, Inc.; property at 2009 Beach Blvd.; a Notice of Claim received from Morris Bart, Ltd., for claims of Mitchell “Mickey” Diamond; update on Jackson County Memorial Park; and the location of a new business by a developer regarding the riverfront and other properties. The motion was seconded by Councilman Milstead and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”, after which the Mayor announced to the public and those in attendance that the Council had voted to go into executive session for the purpose stated above. The Council then began the executive session.

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Councilman Abston made a motion to end the executive session and return to open session. The motion was seconded by Councilman Wolverton and received the following vote: Mayor Maxwell “AYE”. Councilmen Abston “AYE”, Corder “AYE”, Milstead “AYE”, Stallworth “AYE”, Tillman “AYE”, and Wolverton “AYE”.

The executive session ended at approximately 7:31 p.m.

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No action was taken in executive session.

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The following Resolution regarding Singing River Health Systems was considered by the Council as recommended by the City Attorney:

**RESOLUTION AUTHORIZING SETTLEMENT  
OF A DOUBTFUL OR DISPUTED CLAIM WITH  
SINGING RIVER HEALTH SYSTEMS**

**WHEREAS**, Singing River Health Systems, formerly known as Singing River Hospital System, is one of the City of Pascagoula’s top five consumers of natural gas; and

**WHEREAS**, sometime during the year 2008, it was discovered that the City Utility Department had been mis-billing the Singing River Health Systems gas account by using the

wrong threshold level for the computation of the industrial gas rate as contemplated in Section 86-44 of the Code of Ordinances of the City of Pascagoula; and

**WHEREAS**, it has now been determined that the City under-billed Singing River Health Systems in the amount of \$1,117,416 over a period of approximately ten years duration; and

**WHEREAS**, the City has made demand upon Singing River Health Systems to pay the aforesaid amount; and

**WHEREAS**, it has also been discovered that several other high-volume gas clients of the City were similarly mis-billed and demand has been made upon them for payment of the under-billed amounts; and

**WHEREAS**, two of those high volume users, namely, Mallette Brothers Construction Company and Pandle, Inc., both of whom are manufacturers of asphalt products and consume large quantities of natural gas in the operation of their facilities, have now sued the City of Pascagoula in the Chancery Court of Jackson County, MS, seeking certain declaratory and equitable relief regarding the mis-billing of their respective gas accounts; and

**WHEREAS**, Singing River Health Systems has not joined in that litigation, but through counsel, has asserted essentially the same equitable defenses as those being raised in the Mallette/Pandle litigation and has indicated a willingness to join therein to challenge the City's right to collect the under-billed amounts; and

**WHEREAS**, the City of Pascagoula has now obtained an opinion from the Attorney General for the State of Mississippi to the effect that, notwithstanding the mathematical accuracy of the amount owed to the City pursuant to the correct formula for billing the Singing River Health Systems account, the same can still be considered a doubtful or disputed claim in light of the equitable defenses that are being raised in the Mallette/Pandle litigation; and

**WHEREAS**, the City Council authorized the attorney for the City to enter into negotiations with Singing River Health Systems in an attempt to settle the City's claim against that client for the mis-billed amounts; and

**WHEREAS**, Singing River Health Systems has made an offer of compromise to settle this doubtful or disputed claim by the payment of the sum of fifty-five (55) percent of the amount due, the same being \$614,578.80 over a period of one hundred twenty (120) months resulting in an additional monthly billing of \$5,121.49 per month until the offered amount is paid in full; and

**WHEREAS**, the City Council has given due consideration to this offer and, in light of the equitable defenses available to Singing River Health Systems and as asserted in the Mallette/Pandle litigation now pending in the Chancery Court of Jackson County, MS, does find that the offer as set forth herein above is reasonable and just under the circumstances and that the acceptance of same would be in the best interest of the citizens of this community inasmuch as litigation over this matter could result in a significantly lower amount of recovery being made by the City and which will be further depleted by the cost of that litigation:

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

**SECTION 1.** All of the statements set forth in the preambles to this resolution are hereby found as fact and incorporated herein by reference.

**SECTION 2.** The offer of Singing River Health Systems to settle the dispute concerning their gas account by the payment of the sum of \$614,578.80 over a period of one hundred twenty (120) months resulting in an additional billing on their account of \$5,121.49 per month until the account is paid in full is hereby accepted.

**SECTION 3.** The Utility Billing Department is directed to begin the additional billing on October 1, 2011, to be sent to Singing River Health Systems following the entry of this resolution by the City Council and to itemize on the statement the additional amount being assessed in recovery of the mis-billed amount.

**SECTION 4.** A certified copy of this resolution shall be provided to Singing River Health Systems and to the Utility Billing Department.

The above Resolution was introduced by Councilman Tillman, seconded for adoption by Councilman Corder, and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". The Mayor then declared the Resolution adopted on the 19<sup>th</sup> day of July, 2011.

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The following Resolution regarding Rolls-Royce Naval Marine, Inc. was considered by the Council as recommended by the City Attorney:

**RESOLUTION AUTHORIZING SETTLEMENT  
OF A DOUBTFUL OR DISPUTED CLAIM WITH  
ROLLS-ROYCE NAVAL MARINE, INC.**

**WHEREAS**, Rolls-Royce Naval Marine, Inc., formerly known as Bird Johnson, is a manufacturer of propellers for large naval vessels and, as such, is one of the City of Pascagoula's top five consumers of natural gas; and

**WHEREAS**, sometime during the year 2008, it was discovered that the City Utility Department had been mis-billing the Rolls-Royce gas account by using the wrong threshold level for the computation of the industrial gas rate as contemplated in Section 86-44 of the Code of Ordinances of the City of Pascagoula; and

**WHEREAS**, it has now been determined that the City under-billed Rolls-Royce in the amount of \$384,050 over a period of approximately ten years duration; and

**WHEREAS**, the City has made demand upon Rolls-Royce to pay the aforesaid amount; and

**WHEREAS**, it has also been discovered that several other high-volume gas clients of the City were similarly mis-billed and demand has been made upon them for payment of the under-billed amounts; and

**WHEREAS**, two of those high volume users, namely, Mallette Brothers Construction Company and Pandle, Inc., both of whom are manufacturers of asphalt products and consume large quantities of natural gas in the operation of their facilities, have now sued the City of Pascagoula in the Chancery Court of Jackson County, MS, seeking certain declaratory and equitable relief regarding the mis-billing of their respective gas accounts; and

**WHEREAS**, Rolls-Royce has not joined in that litigation, but through counsel, has asserted essentially the same equitable defenses as those being raised in the Mallette/Pandle litigation and has indicated a willingness to join therein to challenge the City's right to collect the under-billed amounts; and

**WHEREAS**, the City of Pascagoula has now obtained an opinion from the Attorney General for the State of Mississippi to the effect that, notwithstanding the mathematical accuracy of the amount owed to the City pursuant to the correct formula for billing the Rolls-Royce account, the same can still be considered a doubtful or disputed claim in light of the equitable defenses that are being raised in the Mallette/Pandle litigation; and

**WHEREAS**, the City Council authorized the attorney for the City to enter into negotiations with Rolls-Royce in an attempt to settle the City's claim against that company for the mis-billed amounts; and

**WHEREAS**, Rolls-Royce has made an offer of compromise to settle this doubtful or disputed claim by the payment of the sum of fifty-five (55) percent of the amount due, the same being \$211,227.50, over a period of one hundred twenty (120) months resulting in an additional monthly billing of \$1,760.23 per month until the offered amount is paid in full; and

**WHEREAS**, the City Council has given due consideration to this offer and, in light of the equitable defenses available to Rolls-Royce and as asserted in the Mallette/Pandle litigation now pending in the Chancery Court of Jackson County, MS, does find that the offer as set forth herein above is reasonable and just under the circumstances and that the acceptance of same would be in the best interest of the citizens of this community inasmuch as litigation over this matter could result in a significantly lower amount of recovery being made by the City and which will be further depleted by the cost of that litigation:

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

**SECTION 1.** All of the statements set forth in the preambles to this resolution are hereby found as fact and incorporated herein by reference.

**SECTION 2.** The offer of Rolls-Royce Naval Marine, Inc. to settle the dispute concerning their gas account by the payment of the sum of \$211,227.50 over a period of one hundred twenty (120) months resulting in an additional billing on their account of \$1,760.23 per month until the account is paid in full is hereby accepted.

**SECTION 3.** The Utility Billing Department is directed to begin the additional billing on the next statement to be sent to Rolls-Royce Naval Marine, Inc. following the entry of this resolution by the City Council and to itemize on the statement the additional amount being assessed in recovery of the mis-billed amount.

**SECTION 4.** A certified copy of this resolution shall be provided to Rolls-Royce Naval Marine, Inc. and to the Utility Billing Department.

The above Resolution was introduced by Councilman Tillman, seconded for adoption by Councilman Corder, and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverton "AYE". The Mayor then declared the Resolution adopted on the 19<sup>th</sup> day of July, 2011.

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The City Manager reminded the Council of the Retreat scheduled for Monday and Tuesday next week at the Outdoor Recreation Leadership Building at the Mississippi Gulf Coast Community College, Gautier campus. Mr. Huffman stated he is looking forward to the sessions.

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Councilman Corder asked the Council to contact the Dixie Boys Baseball All-Star team and coaches and wish them good luck in the World Series.

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There being no further business to come before the Council at this time, Councilman Abston made a motion to recess until Monday, July 25, 2011, at 8:00 a.m. at the Mississippi Gulf Coast Community College, Outdoor Recreation Leadership Building, Gautier, MS, to transact such business as may lawfully come before the Council. The motion was seconded by Councilman Milstead and received the following vote: Mayor Maxwell "AYE". Councilmen Abston "AYE", Corder "AYE", Milstead "AYE", Stallworth "AYE", Tillman "AYE", and Wolverson "AYE".

The meeting ended at 7:35 p.m.

**APPROVED:**

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Robert H. Maxwell, Mayor

**ATTEST:**

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Brenda J. Reed, Asst. City Clerk