

BE IT REMEMBERED THAT THERE WAS BEGUN AND HELD THE REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI ON NOVEMBER 15, 2005 AT 7:00 P.M. IN THE BOARDROOM OF SAID CITY.

THOSE PRESENT	MAYOR CARL SCOTT
CITY ATTORNEY	THOMAS W TYNER
ALDERMEN	DAVID CLAYTON KAY FAIRLEY JAMES MOORE STEVE STRINGER LIESA WEAVER
OTHERS	WAYNE/BETH ISHEE WAYNE SCARBOROUGH WILLIE HINTON BRENDA SHOOK STEVE BUSH KEN TEMPLE JAY COOLEY AND MANY MORE

THE MAYOR DECLARED A QUORUM PRESENT AND DECLARED THE CITY COUNCIL IN SESSION.

THE INVOCATION WAS OFFERED BY REV JOHN SMITH

THE PLEDGE OF ALLEGIANCE WAS RECITED.

WHEREAS, MAYOR SCOTT PRESENTED THE AGENDA WITH THE FOLLOWING CHANGES:

- VII. BIDS & QUOTES
 - 4. REQUEST TO ACCEPT THE PROPOSAL FROM MISSISSIPPI POWER ON ENERGY MANAGEMENT SERVICE
 - 5. REQUEST TO ACCEPT BIDS ON THE FOLLOWING:
 - 1. NEW MOTORGRADER \$179,983.00
 - 2. NEW TRACK TYPE TRACTOR \$100,296.00
 - 3. NEW EXCAVATOR \$120,929.00
- IX. GENERAL BUSINESS
 - 5. OMIT
 - 20. REQUEST TO APPOINT SHOWS, DEARMAN & WAITS, INC TO BE DESIGN PROJECT
- XI. ORDERS & ORDINANCES
 - 3. OMIT
 - 14. REQUEST TO AMEND ORDINANCE 1982(54-A3) ALCOHOLIC BEVERAGES
 - 15. REQUEST TO ADVERTISE FOR BIDS ON THE FOLLOWING:
 - 1. NEW SKID STEEL CAT 277B OR EQUIVALENT
 - 2. NEW 25-TON SLANT NECK LOW BOY
 - 3. NEW HIGH COMPACTION REAR LOADER COLLECTION VEHICLE INCLUDING CHASIS 25 CUBIC YARD OR GREATER
 - 4. USED 1998 OR NEWER TRUCK TRACTOR W/FIFTH WHEEL, TANDEM AXLE, MIN WHEELBASE 157" DAY CAB

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ADOPT THE AGENDA WITH THE FOREGOING AMENDMENTS. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 1, 2005

THEREUPON, ALDERMAN CLAYTON MADE A MOTION THAT THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 1, 2005 BE ADOPTED AS WRITTEN. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS MAYOR SCOTT CALLED FOR PUBLIC COMMENT

JAY COOLEY ADDRESSED THE MAYOR AND BOARD OF ALDERMEN ABOUT THE NEW RENTAL ORDINANCE. MR COOLEY DOES NOT THINK THAT THE LANDLORDS SHOULD HAVE TO PAY THIS FEE DUE TO OTHERS THAT WON'T FIX UP THEIR RENTAL PROPERTY.

BETH ISHEE ADDRESSED THE MAYOR AND BOARD OF ALDERMEN ABOUT THE NEW RENTAL ORDINANCE. MRS ISHEE'S CONCERN IS THAT NOW THE LANDLORDS WILL HAVE TO GO UP ON RENT FOR THESE PEOPLE, WHICH MOST OF THEM ARE ON A FIXED INCOME. ALSO, THAT THE LANDLORDS WILL HAVE TO WAIT TOO LONG BEFORE THEY CAN GET AN INSPECTION, WHICH WILL DELAY THEM FROM GETTING IT RENTED OUT.

WHEREAS, MAYOR SCOTT PRESENTED QUOTES ON A BURSTER FOR THE WATER DEPARTMENT

SEE EXHIBIT "A"

QUOTES

THEREUPON, ALDERMAN MOORE MADE A MOTION TO ACCEPT THE QUOTE FROM PREMIER SYSTEMS IN THE AMOUNT OF \$4,240.00. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE PROPOSAL FOR THE FINANCING OF A NEGOTIABLE NOTE IN AMOUNT OF \$48,240.00 FROM TRUSTMARK

SEE EXHIBIT "B"

NEGOTIABLE NOTE

THEREUPON, ALDERMAN WEAVER MADE A MOTION TO AUTHORIZE THE CITY CLERK TO ACCEPT THE PROPOSAL FOR THE FINANCING OF A NEGOTIABLE NOTE IN THE AMOUNT OF \$48,240.00. ALDERMAN MOORE SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED QUOTES FOR GARBAGE CARTS

SEE EXHIBIT "C"

QUOTES

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ACCEPT THE QUOTE FROM CASCADE ENGINEERING IN THE AMOUNT OF \$26,928.80 FOR 96-GALLON CONTAINERS FOR THE NEWLY ANNEXED AREA. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO ACCEPT THE PROPOSAL FROM MISSISSIPPI POWER ON ENERGY MANAGEMENT SERVICE.

SEE EXHIBIT "D"

MISSISSIPPI POWER

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ADOPT THE FOREGOING PROJECT WITH MISSISSIPPI POWER ON ENERGY MANAGEMENT SERVICE. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO ALLOW MISSISSIPPI POWER TO GIVE THE CITY THE BEST QUOTES ON LIGHTING OF THE BALLPARK FIELDS.

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO AUTHORIZE MISSISSIPPI POWER TO GIVE THE CITY THE BEST QUOTES ON LIGHTING OF THE BALLPARK FIELDS. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO ACCEPT THE BIDS ON THE FOLLOWING:

SEE EXHIBIT "E"

BIDS
NEW MOTORGRADER
NEW TRACK TYPE TRACTOR
NEW EXCAVATOR

THEREUPON, ALDERMAN WEAVER MADE A MOTION TO ACCEPT THE FOREGOING BIDS FROM PUCKETT FOR THE EQUIPMENT. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO CANCEL THE IRREVOCABLE LETTER OF CREDIT FOR DEER RUN SUBDIVISION

THEREUPON, ALDERMAN CLAYTON MADE A MOTION TO CANCEL THE IRREVOCABLE LETTER OF CREDIT FOR DEER RUN SUBDIVISION. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM THE PLANNING COMMISSION TO PAY ALL MEMBERS \$35.00 PER SESSION, PER MEETING

DIED, DUE TO LACK OF A MOTION.

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO ACCEPT THE PLANNING COMMISSION RECOMMENDATION TO REZONE PROPERTY LOCATED AT 114 W 5TH AVENUE.

SEE EXHIBIT "F"

ORDINANCE 1979(42-A173)

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ADOPT THE FOREGOING ORDINANCE AMENDING THE CITY OF PETAL'S ZONING ORDINANCE. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FOR A ZONING HEARING TO BE SET FOR H & L RENTALS, LLC TO BE REZONED FROM C-1 TO C-2.

THEREUPON, ALDERMAN CLAYTON MADE A MOTION TO SET THE ZONING HEARING FOR NOVEMBER 29, 2005 AT 7:00 P.M. FOR H & L RENTALS, LLC PROPERTY LOCATED AT 1227, 1229, 1231, AND 1233 HWY 42 TO REZONE FROM C-1 TO C-2. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON

ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM COMCAST CABLE TO PROVIDE INTERNET SERVICE TO CITY HALL, POLICE DEPARTMENT, FIRE DEPARTMENT AND RECREATION DEPARTMENT AT A COST OF \$42.95 PER LINE.

THEREUPON, ALDERMAN CLAYTON MADE A MOTION TO AUTHORIZE THE CITY CLERK TO CONTRACT WITH COMCAST CABLE TO INSTALL INTERNET SERVICE TO CITY HALL, POLICE DEPARTMENT, FIRE DEPARTMENT AND RECREATION DEPARTMENT. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO RESCIND THE ORDER HIRING LYNN DUNN IN THE STREET DEPARTMENT.

THEREUPON, ALDERMAN WEAVER MADE A MOTION TO RESCIND THE ORDER HIRING LYNN DUNN IN THE STREET DEPARTMENT. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED ESTIMATE #5 FROM JAY VAN IN AMOUNT OF \$89,406.00 FOR CONSTRUCTION WORK ON THE FIRE STATION

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO AUTHORIZE THE CITY CLERK TO PAY JAY VAN IN AMOUNT OF \$89,406.00 FOR CONSTRUCTION WORK ON FIRE STATION #3. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED INVOICE #306 FROM GRIFFIN ARCHITECTURE IN AMOUNT OF \$874.50 FOR DESIGN SERVICE FOR FIRE STATION #3

THEREUPON, ALDERMAN WEAVER MADE A MOTION TO AUTHORIZE THE CITY CLERK TO PAY GRIFFIN ARCHITECTURE INVOICE #306 IN THE AMOUNT OF \$874.50 FOR DESIGN SERVICE OF FIRE STATION #3. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

**ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER**

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM SANITATION DEPARTMENT DALE NUTTING, TO TRANSFER THE 1997 FORD F250, VIN#33073 FROM THE STREET DEPARTMENT TO THE SANITATION DEPARTMENT.

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO AUTHORIZE THE CITY CLERK TO TRANSFER THE 1997 FORD F250, VIN #33073 FROM THE STREET DEPARTMENT TO THE SANITATION DEPARTMENT. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

**ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER**

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING PROOF OF PUBLICATION:

1. **ORDINANCE 1982(54-A2)**

THEREUPON, ALDERMAN MOORE MADE A MOTION THAT THE FOREGOING BE ACCEPTED AND FILED. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

**ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER**

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO ADVERTISE FOR BANK BIDS FOR A TWO-YEAR TERM FROM JANUARY 2006 TO JANUARY 2008.

THEREUPON, ALDERMAN WEAVER MADE A MOTION TO ADVERTISE FOR BANK BIDS FOR TWO-YEAR TERM FROM JANUARY 2006 TO JANUARY 2008. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

**ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER**

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO PURCHASE A VEHICLE FOR THE INVESTIGATIVE DIVISION IN THE POLICE DEPARTMENT.

THEREUPON, ALDERMAN WEAVER MADE A MOTION TO PURCHASE A 1996 LINCOLN CONTINENTAL FROM PERRY AUTO SALES IN THE AMOUNT OF \$3,499.99. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM POLICE CHIEF LEE SHELBOURN TO CANCEL THE WARRANTY COVERAGE OF NCIC MACHINE THROUGH DATAMAXX.

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO CANCEL THE WARRANTY COVERAGE OF NCIC MACHINE THROUGH DATAMAXX EFFECTIVE IMMEDIATELY. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE PRIVILEGE LICENSE REPORT FOR THE MONTH OF OCTOBER 2005

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ACCEPT THE PRIVILEGE LICENSE REPORT FOR THE MONTH OF OCTOBER 2005. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE REVENUE AND EXPENDITURE REPORT FOR THE MONTH OF OCTOBER 2005

THEREUPON, ALDERMAN CLAYTON MADE A MOTION TO ACCEPT THE REVENUE AND EXPENDITURE REPORT FOR THE MONTH OF OCTOBER 2005. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM FIRE CHIEF RICHARD BRYANT TO ACCEPT DONATION FROM MANCHESTER FIRE DEPARTMENT IN AMOUNT OF \$706.25.

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ACCEPT THE DONATION FROM MANCHESTER FIRE DEPARTMENT IN THE AMOUNT OF \$706.25. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM MAJOR SHAWN ELLIS FOR MELISSA HARVEY TO ATTEND THE APCO BASIC CERTIFICATION COURSE ON JANUARY 23-27, 2006 AT JONES COUNTY E.O.C

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO AUTHORIZE MELISSA HARVEY TO ATTEND THE APCO BASIC CERTIFICATION COURSE ON JANUARY 23-27, 2006 AT JONES COUNTY E.O.C. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM MAJOR SHAWN ELLIS FOR ROSS KINSEY TO ATTEND THE APCO BASIC CERTIFICATION COURSE ON JANUARY 23-27, 2006 AT JONES COUNTY E.O.C

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO AUTHORIZE ROSS KINSEY TO ATTEND THE APCO BASIC CERTIFICATION COURSE ON JANUARY 23-27, 2006 AT JONES COUNTY E.O.C. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM MAJOR SHAWN ELLIS FOR JOSHUA SULLIVAN TO ATTEND THE APCO BASIC CERTIFICATION COURSE ON JANUARY 23-27, 2006 AT JONES COUNTY E.O.C

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO AUTHORIZE JOSHUA SULLIVAN TO ATTEND THE APCO BASIC CERTIFICATION COURSE ON JANUARY 23-27, 2006 AT JONES COUNTY E.O.C. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDINANCE

SEE EXHIBIT "G"

ORDINANCE 2005(4)

THEREUPON, ALDERMAN MOORE MADE A MOTION TO ADOPT THE FOREGOING ORDINANCE. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDINANCE

SEE EXHIBIT "H"

ORDINANCE 1979(42-A171)

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ADOPT THE FOREGOING ORDINANCE. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDINANCE

SEE EXHIBIT "I"

ORDINANCE 2005(5)

THEREUPON, ALDERMAN CLAYTON MADE A MOTION TO ADOPT THE FOREGOING ORDINANCE. ALDERMAN MOORE SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDINANCE

SEE EXHIBIT "J"

ORDINANCE 2005(6)

THEREUPON, ALDERMAN MOORE MADE A MOTION TO ADOPT THE FOREGOING ORDINANCE. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDINANCE

SEE EXHIBIT "K"

ORDINANCE 2005(7)

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ADOPT THE FOREGOING ORDINANCE. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM SANITATION SUPERVISOR DALE NUTTING TO INCREASE THE PAY OF STEVE THURMAN

DIED DUE TO A LACK OF A MOTION.

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM SANITATION SUPERVISOR DALE NUTTING TO INCREASE THE PAY OF B. J. WILSON

DIED DUE TO A LACK OF A MOTION.

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM SANITATION SUPERVISOR DALE NUTTING TO INCREASE THE PAY OF BILLY RUSSELL

DIED DUE TO A LACK OF A MOTION.

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDER TRANSFERING CARLA BOUNDS FROM THE METRO DIVISION TO THE INVESTIGATION DIVISION.

ORDER

WHEREAS, THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI DO HEREBY DEEM IT NECESSARY TO HIRE AN INVESTIGATOR, IT IS HEREBY ORDERED THAT CARLA BOUNDS BE TRANSFERRED FROM THE METRO DIVISION TO THE INVESTIGATIVE DIVISION. EFFECTIVE NOVEMBER 11, 2005 SO ORDERED ON THIS THE 15TH DAY OF NOVEMBER 2005.

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ADOPT THE FOREGOING ORDER. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDER DEMOTING SGT DANIEL BENOIT.

ORDER

WHEREAS, THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI DO HEREBY DEEM IT NECESSARY TO DEMOTE SGT DANIEL BENOIT TO 1ST CLASS PATROLMAN, IT IS HEREBY ORDERED THAT DANIEL BENOIT BE DEMOTED TO 1ST CLASS EFFECTIVE NOVEMBER 11, 2005, SO ORDERED ON THIS THE 15TH DAY OF NOVEMBER 2005.

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ADOPT THE FOREGOING ORDER. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDER TRANSFERING DANIEL BENOIT TO THE METRO DIVISION.

ORDER

WHEREAS, THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI DO HEREBY DEEM IT NECESSARY TO TO FILL A POSITION IN THE METRO DIVISION, IT IS HEREBY ORDERED THAT DANIEL BENOIT BE TRANSFERRED TO METRO EFFECTIVE NOVEMBER 11, 2005, SO ORDERED ON THIS THE 15TH DAY OF NOVEMBER 2005.

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ADOPT THE FOREGOING ORDER. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING ORDER PROMOTING HARRIS TAPP TO SERGEANT.

ORDER

WHEREAS, THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI DO HEREBY DEEM IT NECESSARY TO FILL THE POSITION OF SGT IT IS HEREBY ORDERED THAT HARRIS TAPP BE PROMOTED TO SGT EFFECTIVE NOVEMBER 11, 2005, SO ORDERED ON THIS THE 15TH DAY OF NOVEMBER 2005.

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ADOPT THE FOREGOING ORDER. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

**ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER**

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE FOLLOWING AMENDING ORDINANCE 1982(54-A3)

SEE EXHIBIT "L"

ORDINANCE 1982 (54-A3)

THEREUPON, ALDERMAN MOORE MADE A MOTION TO ADOPT THE FOREGOING ORDINANCE. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

**ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER**

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO ADVERTISE FOR BIDS ON THE FOLLOWING:

1. NEW SKID STEEL CAT 277B OR EQUIVALENT
2. NW 25-TON SLANT NECK LOW BOY
3. NEW HIGH COMPACTION REAR LOADER COLLECTION VEHICLE INCLUDING CHASSIS 25 CUBIC YARD OR GREATER
4. USED 1998 OR NEWER TRUCK TRACTOR W/FIFTH WHEEL, TANDEM AXLE, MIN WHEELBASE 157" DAY CAB

THEREUPON, ALDERMAN MOORE MADE A MOTION TO AUTHORIZE THE CITY CLERK TO ADVERTISE FOR BIDS ON THE FOREGOING. ALDERMAN FAIRLEY SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

**ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER**

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE HOLIDAYS AS PROCLAIMED BY THE GOVERNOR'S OFFICE.

SEE EXHIBIT "M"

**STATE OF MISSISSIPPI
CHRISTMAS HOLIDAYS**

**FRIDAY DECEMBER 23, 2005
MONDAY DECEMBER 26, 2005**

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ADOPT THE FOREGOING DAYS AS HOLIDAYS FOR THE ELIGIBLE CITY EMPLOYEES. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED THE HOLIDAYS AS PROCLAIMED FROM THE STATE OF MISSISSIPPI GOVERNOR'S OFFICE.

SEE EXHIBIT "N"

STATE OF MISSISSIPPI
NEW YEARS

MONDAY JANUARY 2, 2006

THEREUPON, ALDERMAN MOORE MADE A MOTION TO ADOPT THE FOREGOING DAYS AS HOLIDAYS FOR THE ELIGIBLE CITY EMPLOYEES. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST TO GO INTO EXECUTIVE SESSION TO DISCUSS LITIGATION.

THEREUPON, ALDERMAN CLAYTON MADE A MOTION TO CLEAR THE ROOM TO DETERMINE IF AN EXECUTIVE SESSION IS REQUIRED. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

MAYOR SCOTT REOPENED THE MEETING.

THEREUPON, ALDERMAN STRINGER MADE A MOTION TO ENTER INTO AN EXECUTIVE SESSION TO DISCUSS LITIGATIONS. ALDERMAN WEAVER SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ADJOURN THE EXECUTIVE SESSION. ALDERMAN MOORE SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

NO OFFICIAL ACTION WAS TAKEN DURING THE EXECUTIVE SESSION.

WHEREAS, MAYOR SCOTT PRESENTED A REQUEST FROM SHOWS, DEARMAN & WAITS, INC FOR THE PROJECT DESIGN

SEE EXHIBIT "O"

SHOWS, DEARMAN & WAITS, INC

THEREUPON, ALDERMAN MOORE MADE A MOTION TO APPOINT SHOWS, DEARMAN & WAITS, INC TO BE PROJECT DESIGNER. ALDERMAN CLAYTON SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

THEREUPON, ALDERMAN FAIRLEY MADE A MOTION TO ADJOURN. ALDERMAN MOORE SECONDED THE MOTION.

THOSE PRESENT AND VOTING "AYE"

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

THOSE PRESENT AND VOTING "NAY"

NONE

THEREBEING NO FURTHER BUSINESS, THE REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI WAS ADJOURNED ON THIS THE 15TH DAY OF NOVEMBER 2005.

(SEAL)


CARL SCOTT
MAYOR

ATTEST:


JEAN ISHEE
CITY CLERK

OFFICE EQUIPMENT QUOTATION

PREMIER Systems

280 A Christopher Co
Ridgeland, MS 39111
Sales (801) 805-65
Service 1-800-385-97
Fax (801) 805-65
website: www.premiersystems.com

11-1-05
205

TO: Stacy Walter

CITY OF PETAL
MINUTE BOOK 25

Title: City Of Petal
Company Name: City of Petal
Address: 119 West 8th Ave. Petal, MS 39465
City: Petal State: MS Zip Code: 39465

EXHIBIT "A"

Fax To: Stacy Walters Fax # 601-545-6685
City of Petal, MS

From: Tim Steele
ServiceLink
Office 901-834-3751
Fax 775-256-8146

We are pleased to submit the following recommendation for increasing efficiency and productivity within your organization.

MODEL: 1190 Busters PFE	\$ 4,240.00
MODEL: 1190 Busters	\$
MODEL: Trimmer & Tractor	\$
SUB-TOTAL	\$ 4,240.00
TAX	\$ 296.00
TOTAL COST	\$ 4,536.00

Price Quote From ServiceLink

Formax FD500 Medium Duty Buster
with Tractor Feed and No Stand
#4450

Formax FD550 - Heavy Duty Busters
with Tractor Feed and Stand
#7295

Marb/Kit 6375 Heavy Duty Busters
with Tractor Feed & Stand
#14650
used-Price \$6500

These Prices Do not include Shipping
charges

IF Any Question Please Call
Tim Steele
901-834-3751

OPTION 1 LEASE: You may lease the equipment to gain possible tax advantages and other cash savings opportunities.

3 year lease for \$ _____ per month
(Other) \$ _____ per month

OPTION 2 PURCHASE: Balance due upon installation.

Model \$ _____ per month, first year \$ _____ thereafter.
Model \$ _____ per month, first year \$ _____ thereafter.

SERVICE AGREEMENT All equipment is guaranteed for 90 days.

After this 90 days you will want a Service Agreement which is available for a 425.00 per year.

All prices will be honored for 30 days from date of quotation.

Thank you for considering Premier Systems Equipment. The necessary investment will be quickly repaid in savings to be obtained.

Sales Representative: Paul Reynolds Date of Quotation: 11-1-05

White (Customer) Yellow (District Office/RO) Pink (Sales Person)

EXHIBIT "B"



Trustmark

November 8, 2005

Petal Board of Aldermen
City Hall
119 W. 8th Avenue
Petal, MS 39465

Dear Ladies and Gentlemen:

Trustmark National Bank is please to submit is proposal for the financing of a negotiable note(s) in the amount of \$48,240.00 for the city of Petal, Mississippi. Financing \$48,240.00 over five (5) years Trustmark would offer an interest rate of 4.18%. Our bid is further subject to the following terms and conditions:

1. **AUTHORITY:** The Lease and other documentation will be authorized and entered into in accordance with State Law. Further, this transaction must be designated by a resolution or order of the Board as a "qualified tax exempt obligation: pursuant to Section 265 of the Internal Revenue Code.
2. **DOCUMENTATION:** Trustmark will provide the City with all documentation needed to undertake this transaction at no cost to the City. The City, through its Board of Aldermen (the "Board") agrees to enter into such documentation, pending Board and Board attorney approval. The City will also file an IRS Form 803-G in a timely manner and provide a copy to Trustmark after the closing of this financing.
3. **FUNDING DATE AND EXPIRATION:** Our commitment to fund this lease at the rate indicated herein will expire at midnight, December 8, 2005 unless accepted prior thereto by the City or extended agreement between Trustmark and the City.

We hope this information is to the City's satisfaction. Should any questions arise, please do not hesitate to contact me.

Trustmark National Bank

By:


Michael Slay, AVP

SD & W
SHOWS, DEARMAN & WAITS, INC.
CONSULTING ENGINEERS
P.O. BOX 1771, 301 SECOND AVENUE
HATTESBURG, MISSISSIPPI, 39403-1771
P: (801) 544-1821 F: (801) 544-0501
HTTP://WWW.SD-W.COM

RAYMOND M. DEARMAN, P.E., R.L.S.
MICHAEL T. WAITS, P.E., R.L.S.
NICHOLAS M. CONNOLLY, P.E., L.P.E.
KYLEE WILKAGE, P.E.
SHEA S. MONEARE, P.E.
SHEILA LANA, E.I.
JOHN T. WEBER, E.I.
PAUL J. SHOWS (198)

CASCADE
engineering
shopping ideas in plastics
CITY OF PETAL
MINUTE BOOK 25

207

October 28, 2005

EXHIBIT "C"

Mr. Carl Scott
City of Petal, MS

E-mailed: cscoff@cityofpetal.com

RE: Quote - 96-gallon containers: Petal, MS

Dear Mr. Scott:

On behalf of Cascade Engineering, I am pleased to offer the City of Petal pricing on 96-gallon containers. Pricing is valid for thirty days and freight is detailed separately.

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1,044 (two truckloads - 522 per TL)	96-gallon universal containers Green #4400-5184 / No Logo	\$47.90	\$60,007.80
1,044	Freight per cart	\$3.69	\$3,852.36

Freight is F.O.B. Petal, MS and is inclusive of green coloring and serial numbering. Pricing is exclusive of sales tax (if applicable). I reviewed the manufacturing schedule and would be able to work you in the schedule next week. Shipment would occur within 5-10 days maximum after receipt of order. I can work with you to speed up the shipment schedule if need be. I understand your current demands and will be more than happy to accommodate you.

Please feel free to contact me at (336) 214-3549 should you have any questions or need additional information. Thanks in advance for contacting Cascade for your container needs. I have also attached literature for your review. We appreciate the opportunity to work with you and I look forward to hearing from you soon.

Sincerely,

Shannon M. Homer
Shannon Homer, Southeast Regional Sales Manager
CASCADE ENGINEERING
Mobile - (336) 214-3549
Office - (336) 228-8187
Fax - (801) 780-7412
E-mail - shannonhomer@cad.com

P.O. # 63938

TRAIL # 801-780-7412

November 2, 2005

City of Petal
P.O. Box 564
Petal, MS 39465
Attn: Mayor Carl Scott

Dear Mayor Scott,

It is my understanding that the services of Enviro to remove residential garbage from the City of Petal has been terminated. If this is true, garbage on City Right of Way will accumulate. my professional opinion as City Engineer and Public Works advisor that such a situation will hazard to the health of Petal citizens. Therefore, it is my recommendation you take the ediate action to remove this potential health hazard.

Should you have any questions or comments, please do not hesitate to contact me. With kindest regards, I remain

Sincerely,

Michael T. Waits, P.E., R.L.S.

MTW/ll

Enclosure

F:\PROJECTS\Petal_City of\05-1422 - Hurricane Katrina\Corral\Mayor-health hazard.vpd

4601 37th Street SE • Grand Rapids, Michigan 49512
Customer Service - (800) 688-2278 • Fax - (801) 780-7412

OCT 28 2005 5:13 PM

CASCADE
engineering
shopping ideas in plastics

FAXED
page

November 2, 2005

Mayor Carl Scott
City of Petal, MS
PO Box 564
Petal, MS 39465

E-mailed: cscoff@cityofpetal.com

RE: Quote - 3,132 96-gallon containers: Petal, MS

Dear Mayor Scott:

On behalf of Cascade Engineering, I am pleased to offer the City of Petal pricing on 96-gallon containers. Pricing is valid for thirty days and freight is detailed separately.

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
3,132 (six truckloads - 522 per TL)	96-gallon universal containers Green #4400-5184 / City Logo	\$47.90	\$150,022.80
3,132	Freight per cart	\$3.69	\$11,567.08

Freight is F.O.B. Petal, MS and is inclusive of green coloring, custom hot-stamping on carts sides and serial numbering. Pricing is exclusive of sales tax (if applicable). If you could forward the City logo to me, I can have our art department work on the graphics for your approval. A fax or e-mail is fine. Fax - 801-780-7412 or e-mail - cascadecad@cad.com.

Please feel free to contact me at (336) 214-3549 should you have any questions or need additional information. Thank you for your recent order and the opportunity to meet your container needs.

Sincerely,

Shannon Homer, Southeast Regional Sales Manager
CASCADE ENGINEERING
Mobile - (336) 214-3549
Office - (336) 228-8187
Fax - (801) 780-7412
E-mail - shannonhomer@cad.com

4601 37th Street SE • Grand Rapids, Michigan 49512
Customer Service - (800) 688-2278 • Fax - (801) 780-7412

NOV 2 2005 11:15 AM

CITY OF PETAL
MINUTE BOOK 25



EXHIBIT "D"

December 12, 2005

City of Petal
Petal, MS

Attention: Major Carl Scott and City Board of Aldermen

Regarding: Lighting Upgrade & Improvement at City Baseball Park

Dear Mayor Scott,

As you are fully aware, Hurricane Katrina contributed to the decision that was made to take down the existing lights and poles at your City baseball park. The problem at hand is that Petal High School plays baseball on one of the three fields. Your Board voted for Mississippi Power Company - Business and Industry Services Group to prepare a proposal of replacing and upgrading the ball field poles, lights, and electrical. We will be able to perform the project under the scope of the Request for Qualifications that the City accepted our company under, as your Qualified Energy Services Provider.

Mississippi Power will be able to be the primary contractor, since this will be consider an energy efficiency project as well as an emergency response to damage caused by Hurricane Katrina. If Mississippi Power is selected to be the primary contractor, we will manage the project in two phases as previously discussed with the City Administration. Both phases will work simultaneously for efficiency of time. We recommend an electrical upgrade phase to include weather-proof panels, along with the installation of lights and poles. After getting cost comparison for each of these phases, Palmer Electric proposed the best price for the electrical upgrade (panels) and Lee's Electric proposed the best price for the installation of poles and lights (includes associated electrical), along with parking lot lights.

After reviewing different installation options, Mississippi Power recommends a system that has integral ballast and cross-arms. This system seemed to more economical but gave the City the benefit of concrete poles and new metal halide light fixtures. This complete upgrade will cost the City \$547,500. It will be financed / leased on a low governmental interest rate of approximately 5.7%. The term can be up to 7-years with no penalty of early payment. Your approximate monthly installment amount will be \$7,919.68 which will be placed on your power bill as a line item.

The City of Petal should see an over-all increase in energy efficiency of 71%. This results in 66 lumens per watt for the old lighting system in comparison to 113 lumens per watt for the new lighting system (47 lumens per watt gained). The existing lighting system had reached its useful life which is projected to be 20 to 25 years. Also, the City will not have to do any significant maintenance for at least 10 years other than change bad ballasts and lamps. The old wood poles deteriorate over time and the existing light fixtures have a potential problem of losing aim and require more service which equates into cost for the City. The concrete poles and metal cross-arms last a great deal longer. The old system could only produce 30 foot-candle power in the baseball infield and 20 foot-candle power in the outfield. With the new system, you will enjoy 50 foot-candle power with the infield and 30 foot-candle power on the outfield. The softball field will have an improved lighting level of 30 foot-candle power infield to 20 out-field.

We recommend at the start of each baseball season of employing an electrical contractor with a bucket truck that can reach to a mounting of height of 80 feet to change any bad ballast and lamps. The City will gain with increase safety and appearance of both players and fans. The electrical upgrade will increase safety and reliability of electrical service on the City side of the meter.

Mississippi Power Company looks forward to working with the City of Petal on this project. If there are any questions, I can be reached at 601-426-4861 or 601-319-4861. Thank you.

Sincerely,

Michael Myrick, C.E.M.
Engineering Application Specialist

Puckett 

EXHIBIT "E"

The City of Petal
City Hall-City Clerk
Petal Mississippi

Honorable Mayor and City Council
In response to your advertisement to receive sealed bids for one new Motorgrader on November 14th, 2005 by 10:00 A.M. we respectfully submit the following for your consideration:

One **New Caterpillar 12H Motorgrader** meeting or exceeding published specifications including the following:

- < Caterpillar 6 cylinder diesel engine with 165 VHP net horse power
- < Caterpillar transmission with 8 forward and 6 reverse speeds, direct drive power shift
- < Air actuated, oil disc service brakes and multiple oil-disc parking brake
- < 14:00 x 24, 10 ply tires on 10" rims
- < Load sensing, pressure compensating, variable displacement piston hydraulic pump
- < 60.2" blade circle diameter
- < Articulation frame
- < Electronic monitoring system (EMS)
- < 14' blade moldboard
- < Front and rear work lights, Turn signals, Flashers, Stop and tail lights
- < ROPS/ CAB, heated and air-conditioned
- < Front mounted V-type Scarifier
- < All other standard and specified equipment, see attached specification sheet

Delivered F.O.B., to The City of Petal **\$ 179,983.00**
(Plus applicable tax.)

Warranty: The New Caterpillar 12H Motorgrader comes with a Standard Manufacturers Warranty of 6 months, unlimited hours. These units also have Puckett Machinery Company, Governmental Power train Warranty of 60 months (5 years), or 7500 hours, whichever occurs first. All Warranty begins on the day of delivery.

Availability: A new machine can be delivered in 7 - 15 days after receipt of purchase order. All stock and ordered machines are subject to prior sale unless secured by purchase order.

Price Validity: These bid prices will be good for 30 days from the date of the bid.

Guaranteed Buy Back: The repurchase price will be based on the unit being in sound mechanical shape and good working order under full payload. The unit shall have a minimum of 60% tire tread life if the buy back option is taken at 36, 48 or 60 months. Any physical damage such as cracked or broken glass, damaged sheet metal or structural damage other than normal wear will be deducted from the offered buy back price. There is no obligation on your part to sell the unit back to us, but you will have this option should you choose to do so.

Thank you for allowing Puckett Machinery Company to offer this unit to The City of Petal. We appreciate the confidence in our company and the Caterpillar Product line shown in the past and will continue to strive to give you the very best of service.

Sincerely
Puckett Machinery Company
Kenny Miller
Kenny Miller
Sales Representative
November 14th, 2005

License # 1949
Privilege License # 5232

SUPPLIER BID FORM

Name of bidder: Puckett Machinery Company
Address of bidder: Hattiesburg Ms.
Make of unit: Caterpillar
Model of unit: 12H

Lease Purchase Financing being availed through First Continental

Lease-Sale price of new unit	\$ 179,983.00
36 month lease payment	\$ 1,979.17
Balloon payment	\$ 128,000.00
48 month lease payment	\$ 1,803.61
Balloon payment	\$ 118,500.00
60 month lease payment	\$ 1,702.16
Balloon payment	\$ 108,500.00

Guaranteed buy back @ 36 months or 5000 hours	\$ 128,000.00
Guaranteed buy back @ 48 months or 6000 hours	\$ 118,500.00
Guaranteed buy back @ 60 months or 7500 hours	\$ 108,500.00

Interest rate (APR)% 36 Month @ 4.05% 48 Month @ 4.10% 60 Month @ 4.15%
Warranty (Enclose copy) Attached
Labor rate for non warranty work (by hour) \$ 69.00 Shop, \$ 73.00 Field
Travel mileage rate (per mile) \$ 1.85
Distance from nearest facility 5-10 miles
Delivery date Please see Bid

Exceptions and Justification to Specifications

representative Kenny Miller Date Nov 14, 2005

Puckett 

The City of Petal
City Hall-City Clerk
Petal Mississippi

Honorable Mayor and City Council
In response to your advertisement for sealed bids to be opened on Monday November 14th 2005, being due at 10:00 A.M., for the Purchase or Lease of one New Track Type Tractor, we respectfully submit the following for your consideration.

1 **New Caterpillar D5GLGP Track Type Tractor** meeting or exceeding all published specifications including the following:

- > Caterpillar Engine with 90 net FWHP.
- > Hydrostatic Transmission, Joystick Control with full power turns, full counter rotation and double reduction final drives.
- > Hydrostatic Dynamic Braking through machine drive system.
- > Dry type Air cleaner
- > Hand Throttle Control with foot Decelerator Pedal.
- > Rops-canopy with side and rear screens and sweeps
- > Blade 128.1" wide, 40.5" high, 3.06 Cyd capacity, all hydraulic with power, angle and tilt, variable pitch.
- > Undercarriage includes 26" Track pads, 68" Track Gauge, 91" of Track on Ground, 7 Bottom Rollers on each side.
- > Hydraulics 17.6 G.P.M @ 2900 PSI, three valve
- > Transmission Oil Cooler
- > Turbine Pre Cleaner
- > All other specified and standard equipment.

Delivered, F.O.B., to The City of Petal **\$ 100,296.00**
(Plus applicable tax)



Guaranteed Buy Back:

The repurchase price will be based on the unit being in normal operating condition and sound mechanical shape under full payload. Any physical damage other than normal wear such as broken glass, missing or damaged sheet metal or structural damage to the frame will be deducted from the offered buy back price. The Undercarriage shall be in safe operable condition with a minimum of 50% life remaining. There is no obligation on your part to sell the machine back to us, but you will have this option should you choose to do so.

Warranty:

The new Caterpillar D5GLGP Track Type Tractor will have Standard Manufacturers Warranty of 12 months or 1500 hours and Puckett Machinery Company's Governmental Power Train Warranty of 60 Months (5-years) or 7500 Hours, which ever occurs first. All Warranty starts on the day of delivery.

Price validity/Delivery:

The amount of this bid does not exceed the price permitted by law. Prices are good for 30 days from the bid date. Delivery can be made in approximately 30 - 60 days on the New D5GLGP. All Stock and Ordered units are subject to prior sale unless secured by purchase order.

Terms:

Please note Lease Purchase financing on attached Supplier Bid Form for each configuration.

Puckett Machinery Company appreciates the opportunity to offer the Caterpillar D5GLGP Track Type Tractor to The City of Petal. Please let us know if we can be of service.

Sincerely,
Puckett Machinery Company
Kenny Miller
Kenny Miller
Sales Representative
November 14, 2005

License # 1949
Privilege License # 5232

EXHIBIT "E"

The City of Petal
City Hall-City Clerk
Petal Mississippi

Honorable Mayor and City Council:

In response to your advertisement for sealed bids on Monday November 14, 2005 by 10:00 A.M., for one New Excavator and Lease Purchase Financing, we are pleased to submit the following:

1 (One) New Caterpillar 315CL Hydraulic Excavator, which meets or exceeds, all published specifications including the following:

- > Caterpillar 3046T, Turbo-charged, diesel engine with 110 net horse power
- > Operating weight of 36,930 lbs.
- > Undercarriage length of 13' end to end, 28" track shoes
- > Travel speed of 3.4 mph, with drawbar pull of 33,710 lbs.
- > Deluxe Cab, mounted to swing frame, pressurized, heated with defroster, climate control, adjustable suspension seat, vandalism protection package, roof hatch, seat belt, joy stick controls, AM/FM Radio, cab and frame mirrors
- > Hydraulic implement system flow @ 79 GPM, 4900 PSI, Automatic boom and swing priority
- > 1.15 cubic yard, 48" HD bucket with teeth and side cutters
- > 30' reach @ ground level, 16'9" boom, 10' 2" stick
- > Digging depth, 21' 6", Stick force 15,280 Lbs.
- > Lift capacities, ground level @ 15', front 14,600 lbs., side 8250 lbs rated with .78 Cyd Bucket
- > All other standard or specified equipment!
- > Stationary 3-position mechanical thumb
- > Automatic engine speed control
- > Power and work mode selector

Delivered F.O.B. to The City of Petal

\$ 128,929.00
(Plus applicable tax)

The City of Petal, Excavator bid, page two

Delivery: From date of Purchase Order, 7 - 15 days if secured by order. All units are subject to prior sale unless secured by order. If the quoted-stock unit's are sold, delivery could be up to 45 to 60 days.

Price Validity: The Bid price will be good for 30 days after the bid date.

Guaranteed Buy Back: The repurchase price will be based on the unit being in sound mechanical shape and good working order under full payload. The unit shall have a minimum of 50% life remaining on all undercarriage components including track shoes, links, pins, idlers, bogies, sprockets, carrier rollers, track rollers, etc; Any physical damage such as cracked or broken glass, damaged sheet metal, or structural damage, other than normal wear, will be deducted from the offered buy back price. There is no obligation on your part to sell the machine back to us, but you will have this option should you choose to do so.

Warranty: The Caterpillar 315CL Hydraulic Excavator will carry a standard manufacturers warranty of 12 months or 1500 hours and Puckett Machinery Company's Governmental Powertrain Warranty of 5 years (60 months) or 7500 hours. All warranty starts on the day of delivery.

Thank you for allowing Puckett Machinery Company the opportunity to offer this unit to The City of Petal.

Sincerely
Puckett Machinery Company
Kenny Miller
Kenny Miller
Sales Representative
November 14, 2005

License # 1949
Privilege License # 5232

SUPPLIER BID FORM

Name of bidder: Puckett Machinery Company Inc.

Address of bidder: Hattiesburg, Ms.

Make of unit: Caterpillar

Model of unit: 315CL Hydraulic Excavator

Finance rates - stated through First Continental Lender

Lease price of New unit	\$ 120,929.00
36 month lease payment	\$ 1,721.09
Balloon payment	\$ 71,000.00
48 month lease payment	\$ 1,529.95
Balloon payment	\$ 63,000.00
60 month lease payment	\$ 1,411.71
Balloon payment	\$ 55,000.00

Guaranteed buy back @ 36 months or 5000 hours	\$ 71,000.00
Guaranteed buy back @ 48 months or 6000 hours	\$ 63,000.00
Guaranteed buy back @ 60 months or 7500 hours	\$ 55,000.00

Interest rate (APR) 36 Month @ 4.05 % 48 Month @ 4.10% 60 Month @ 4.15%	
Warranty (Enclose copy)	See Attached
Labor rate for non warranty work	(by hour) \$ Shop-69.00 Field-73.00
Travel mileage rate	(per mile) \$ 1.85
Distance from nearest facility	5-10 miles
Delivery date	Please see Bid

Exceptions and Justification to Specifications:

Representative: *Kenny Miller* Date Nov 14, 2005

CITY OF PETAL
MINUTE BOOK 25211
CITY OF PETAL
ORDINANCE BOOK 3

EXHIBIT "F"

ORDINANCE NUMBER 1979 (42-A173)

AN ORDINANCE CHANGING AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 1979 (42) OF THE CITY OF PETAL, MISSISSIPPI, AS AMENDED BY ORDINANCE NUMBERS 1979 (42-1) THROUGH 1979 (42-A172) SO AS TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY LOCATED AT 114 W. FIFTH AVENUE, PETAL, MS, FROM R-2 (LOW TO MEDIUM DENSITY RESIDENTIAL) TO R-3 (MEDIUM DENSITY RESIDENTIAL).

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI:

SECTION 1. That the Comprehensive Zoning District Map, adopted as part of the Comprehensive Zoning Ordinance Number 1979 (42) of the City of Petal, Mississippi, as amended by Ordinance Numbers 1979 (42-1) through 1979 (42-A172) and the same is hereby changed and amended as per petition filed in connection therewith so that the land described as listed below. Change of current zoning from R-2 (Low to Medium Density Residential) to R-3 (Medium Density Residential).

Said land being more particularly described as follows, to wit:

PART OF THE NE 1/4 OF THE NE 1/4 OF S2, T4N, R13W, IN FORREST COUNTY, MS; BEG AT THE SW COR OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION, TOWNSHIP AND RANGE, AND RUN THENCE N20', THENCE E891' TO THE POB, RUN THENCE E99', RUN THENCE N132', RUN THENCE W99', RUN THENCE S132' TO THE POB, IN FORREST COUNTY, MS

as per map or plat thereof on file in the office of the Chancery Clerk of Forrest County, Mississippi, is hereby classified and placed in the R-3 (Medium Density Residential).

SECTION 2. Except as hereby expressly changed and amended, the aforesaid Comprehensive Zoning Ordinance No. 1979 (42) of the City of Petal, Mississippi, as amended by Ordinance Numbers 1979 (42-1) through 1979 (42-A172) shall be and remain in full force and form as adopted on November 15, 2005.

SECTION 3. That this Ordinance shall take effect and be in full force within thirty (30) days from and after its passage as provided by law. The foregoing Ordinance having been reduced to writing, the same was introduced and read, and a vote was taken thereon, first section by section and then upon the Ordinance as a whole with the following results:

Those present and voting "AYE" and in favor of the passage, adoption and approval of Sections 1, 2 and 3 of the foregoing Ordinance:

180

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

Those present and voting "NAY" or against the adoption of any section of the foregoing Ordinance:

NONE

Those present and voting "AYE" and in favor of the adoption of the foregoing Ordinance as a whole:

ALDERMAN DAVID CLAYTON
ALDERMAN KAY FAIRLEY
ALDERMAN JAMES MOORE
ALDERMAN STEVE STRINGER
ALDERMAN LIESA WEAVER

Those present and voting "NAY" or against the adoption of the foregoing Ordinance as a whole:

NONE

WHEREUPON, the foregoing Ordinance be, and the same is hereby passed, adopted and approved on this the 15th day of November 2005.


CARL SCOTT, MAYOR

(SEAL)

ATTEST:


JEAN SHREE, CITY CLERK

PUBLISH 1 TIME: November 22, 2005.

AN ORDINANCE REQUIRING STANDARDS FOR PLACEMENT OF GARBAGE REFUSE DUMPSTERS/CONTAINERS FOR ESTABLISHMENTS OTHER THAN SINGLE FAMILY RESIDENTIAL, ESTABLISHING PERMIT FEES FOR GARBAGE REFUSE DUMPSTERS, PROVIDING PENALTIES FOR VIOLATION THEREOF, AND ESTABLISHING AN EFFECTIVE DATE

EXHIBIT "G"

WHEREAS, THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI do hereby find and adjudicate that there is a need for requiring standards for placement of garbage refuse dumpsters for establishments other than single family residential, establishing permit fees for garbage refuse dumpsters, providing penalties for violation thereof, and establishing an effective date within the City of Petal, Mississippi, in order to preserve the health, safety, and welfare of the City of Petal, Mississippi, it is, ORDAINED:

Section 1:

All establishments other than single family residential, within the City of Petal, Mississippi, shall be required to obtain garbage refuse dumpsters/containers to be stored inside of an enclosed locked compound. Establishments not large enough to need a dumpster may use smaller containers approved by the Building Inspection Department but still must store the containers inside of an enclosed locked compound. The dumpster shall be placed on a concrete surface with a skirt extending a minimum of ten (10) feet to the front. The height of the compound shall be at least twelve (12) inches above the height of the dumpster/container but in no case less than six (6) feet. The company providing the dumpster shall obtain a permit from the Building Inspection Department of the City of Petal, Mississippi, with a fee of \$20.00 per dumpster per calendar year.

Section 2.

Any person, firm, or corporation, or other legal entity violating the terms and provisions of this Ordinance shall be guilty of a misdemeanor, and subject to a fine not to exceed one thousand (\$1,000.00) dollars.

Section 3.

This Ordinance shall be in full force and effect thirty (30) days from and after its passage.

The above and foregoing Ordinance having been reduced to writing, first section by section and then as a whole, the following vote was taken to adopt the Ordinance:

Alderman David Clayton
Alderman Kay Fairley
Alderman James Moore
Alderman Steve Stringer
Alderman Lissa Weaver

Those present and voting "NAY" or against the adoption of the foregoing Ordinance as a whole:

None

WHEREUPON, the foregoing Ordinance be and the same is hereby passed,

adopted and approved on this the 15th day of November, A.D. 2005.


Carl Scott
Mayor

(Seal)

Attest:


Jean Lince
City Clerk

PUBLISH: 1 TIME: DECEMBER 1, 2005

ORDINANCE 1979(42-A171)

AN ORDINANCE AMENDING ORDINANCE 1979(42), THE OFFICIAL ZONING ORDINANCE OF THE CITY OF PETAL, MISSISSIPPI, TO INCLUDE A SECTION 8.4, OFF-STREET CURB PARKING REQUIREMENTS

EXHIBIT "H"

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE

CITY OF PETAL, MISSISSIPPI:

SECTION 1.

The following Article be added to Ordinance 1979(42) as follows:

8.4 OFF-STREET CURB PARKING REQUIREMENTS

All off-street automobile parking spaces or areas for the uses listed in Section 8.2 above, with the exception of single-family dwellings, shall be curbed with a minimum of 4" X 4", 2500 PSI concrete or 4" X 4" asphalt when applied with a curbing machine.

ION 2.

as amended herein, the provisions of Ordinance 1979(42) are in full force and

ect.

SECTION 3.

This Ordinance shall be in full force and effect thirty (30) days from and after its passage.

The above and foregoing Ordinance having been reduced to writing, first section by section and then as a whole, the following vote was taken to adopt the Ordinance:

Alderman David Clayton
Alderman Kay Fairley
Alderman James Moore
Alderman Steve Singsen
Alderman Lisa Weaver

Those present and voting "NAY" or against the adoption of the foregoing

Ordinance as a whole:

None

WHEREUPON, the foregoing Ordinance be and the same is hereby passed,

adopted and approved on this the 15th day of November, A.D. 2005


Carl Scott
Mayor

(SEAL)

ATTEST:


Jean Lyles
City Clerk

PUBLISH: 1 TIME: DECEMBER 1, 2005

AN ORDINANCE REGULATING RESIDENTIAL RENTAL PROPERTY, PROVIDING LICENSING REQUIREMENTS, INSPECTION REQUIREMENTS PROVIDING DEFINITIONS AND REGULATIONS, ESTABLISHING FEES, AND ESTABLISHING AN EFFECTIVE DATE

EXHIBIT "A"

Section 1 - 3. License Required
The adoption of this ordinance, it shall be unlawful for owner(s) of applicable residential rental property located within the City of Petal to operate/rent such property without obtaining a residential rental property license. This section shall apply to the following residential rental property classifications:

- 1. owner occupied dwellings containing a unit inhabited by the owner and one (1) or more rental unit(s)
2. all non-owner occupied dwellings except as provided for by licensing through the state department of health.

Renting/operating residential rental property without a license to do so constitutes a violation of this Ordinance, and is subject to the penalties set forth in this ordinance that follows.

Section 1-1. Purpose

It has been determined that a significant amount of the housing stock in the City of Petal consists of residential rental property and that current inspections of residential rental property are triggered only when the city receives complaints regarding alleged violations of relevant federal, state and local laws and regulations. Further, the City of Petal is committed to protecting the safety, health and welfare of its residents and is desirous in eliminating residential housing blight by requiring the licensing and inspection of all residential rental property in accordance with the provisions of this ordinance.

Section 1-2. Definitions

Basement shall mean a portion of a building located partly underground, but having less than one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground. Where the contour of the ground level immediately adjacent to the building is interrupted by ditching, pits, or trenching, the average adjoining ground level shall be the nearest contour line parallel to the walls of the building without regard to the level created by ditching, pits, or trenching.

Building Inspector means the city employee responsible for ensuring compliance with all local codes and ordinances, is authorized to administer the licensing and inspection of residential rental property and works at the discretion of the Mayor and Board of Aldermen.

Cellar shall mean a portion of a building located partly or wholly underground, and having one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Code Enforcement Officer means a city employee who conducts rental housing property inspections for purposes of determining whether such property complies with the minimum housing code standards as outlined in the city's applicable regulations. The code enforcement officer works under the direction of the Building Inspector.

Common Areas means those interior and exterior areas of the residential rental property as defined herein of which the occupants have access, including, but not limited to, entrances, exits, hallways, stairways, basements, cellars, laundry rooms, attics, porches and yards.

Dwelling shall mean any building located in the city, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined shall not be regarded as a dwelling. For purposes of this ordinance, the term shall be synonymous with "residential rental property".

Dwelling Unit shall mean any room or group of rooms located within a dwelling, and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating.

Occupant shall mean any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit.

Owner shall mean any person who, alone or jointly or severally, with others;

- 1. Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
2. Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Article, and to the rules and regulations adopted pursuant thereto, to the same extent as if he was the owner.

Person(s) shall mean and include any individual, firm, corporation, association, or partnership.

Premises means the entire interior and exterior portions of a dwelling including the common areas thereof, and facilities and appurtenances therein, and grounds, areas and facilities held out for the use of occupants generally, or whose use is promised to the tenant/occupant.

Property includes all lands, including all structures, improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith.

Residential Rental Property means any dwelling not occupied by the owner of record.

Rooming House shall mean any dwelling, or that part of any dwelling, containing one or more rooming units in which space is let by the owner or operator to four (4) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator; provided that hospitals, homes for the aged, and other institutions licensed by the state department of health, shall not be regarded as rooming houses or as subject to the provisions of this ordinance.

Rooming Unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Temporary Housing shall mean a tent, trailer, or similar structure that is used as human shelter for not more than thirty (30) consecutive days, or more than ninety (90) total days, in any calendar year.

effectuate the repair. Once the time allowed for repair expires, the Building Inspector or his designee will re-inspect the residential rental property. If any defect remains, the Building Inspector will have discretion to provide the owner or his agent with additional time to repair it, or order alternative measure(s), including penalizing said owner pursuant to Section 1 - 13 of this ordinance.

- J Each tenant shall be responsible for maintaining his respective rental unit in a clean and sanitary condition, and abide by all duties imposed on him by all applicable federal, state and local laws and regulations including the any applicable ordinances by the City of Petal. A tenant will be liable for all damages that he causes to the residential rental property. If the Building Inspector or his designee finds that a tenant is responsible for damages that are detected during the inspection of the residential rental property, the inspector may issue a citation and proceed to collect the associated fine as determined by a court proceeding.

- K If repairs are not made within the designated time limit, a fine may be retroactively applied to the date that the residential rental property owner or his agent received the completed licensing inspection form identifying the existing defect(s) up to a period of thirty (30) days.

- L No residential rental property license will be issued to a residential rental property owner unless and until the Building Inspector or his designee finds that all defects concerning that property have been repaired.

Section 1-7. Consent

Before the Building Inspector or his designee can inspect a residential rental property unit, the tenant(s) of such unit must consent to its inspection. If such tenant(s) object to such inspection, the Building Inspector or his designee must obtain an administrative warrant before the Building Inspector or his designee can conduct an inspection of that unit.

Section 1-8. License Effect

The Building Inspector or his designee will use a checklist of specific housing criteria when inspecting the residential rental property. That criterion is outlined in the city's ordinances and regulations developed pursuant to the International Building Code for all residential properties. The issuance or reinstatement of a residential rental property license shall constitute proof that the inspected property meets the minimum housing code standards contained in that criteria.

Section 1-9. Term of License

The residential rental property license term shall be effective for two (2) years commencing from the license issuance date unless otherwise voided as a result of a subsequently discovered defect, a property transfer or other just cause as determined by the Building Inspector. Once the license term expires, the property title is transferred, or a license is otherwise voided, the license must be renewed or reinstated, as appropriate, in order to be effective.

Section 1-10. Regulations

The Building Inspector shall develop regulations for the licensing and inspection of residential rental property. The regulations may be amended from time to time with the approval of the city's board of aldermen. The license issuer shall have copies of the regulations available for the public.

Section 1-11. Transfer of License

Licenses are not transferable. If the ownership of a licensed residential rental property changes, the new owner(s) of such property must apply for a new license, and the residential rental property must be re-inspected.

Section 1-12. Enforcement

The Building Inspector or his designee is empowered to enforce the provisions of this ordinance of the City of Petal.

Section 1-13. Penalties

- A A violation of any of the provisions of this ordinance may result in a civil fine of one hundred dollars (\$100.00) per day per unit for each day that such violation continues up to thirty (30) days, or the maximum amount allowed under the Mississippi Annotated Code of 1972 as amended, whichever is greater.
B The city may file a lien against residential rental property if the owner of such property or his agent fails to pay a fine within thirty (30) days of the date in which it was imposed. The amount of the lien may be calculated on the basis of the existing fine plus associated costs including legal fees incurred in connection with this section.
C Nothing herein shall prevent the city from seeking any other means available at law or in equity in order to enforce this ordinance's provisions.

Section 1-14. Conciliation Board

The Mayor and Board of Aldermen may appoint a conciliation board to resolve disputes arising from the application of this article before formal appeal or court involvement. The board will meet on an as needed basis, and function as an impartial and informal hearing tribunal that deals with minor issues voluntarily brought before

it, including but not limited to, a tenant's refusal to provide access to his dwelling unit, and decisions negatively affecting a residential property owner (i.e. the Building Inspector's refusal to issue a license to such owner because of defect(s) discovered with respect to his property dispute). Any interested person may seek relief from this board as an alternative resolution mechanism. The request for relief must be written and filed with the conciliation board within ten (10) days of the challenged dispute. The committee shall be comprised of four (4) persons: one (1) city employee associated with the city's building inspection department, one (1) representative from a local attorney's office, one (1) neutral property owner (not involved in residential property rental) and one (1) alderman selected by the Mayor and Board of Aldermen. No conciliation proceeding shall extend beyond thirty (30) days. Board decisions are not binding, and may be appealed in accordance with this ordinance's appeals section. In cases in which the conciliation board's vote results in a tie, the appeals process will be immediately initiated.

Section 1-15. Appeals

Any person aggrieved by a denial of a residential rental property license, or by the licensee's terms or conditions, or by the suspension, cancellation or revocation of such license, may appeal such action to the Mayor and Board of Aldermen by filing a written notice of intent to appeal within ten (10) calendar days of receipt of the written notice of the disputed action.

Section 1-16. Applicability

The provisions of this ordinance apply to any other ordinances, articles or sections of the Code of Ordinances of the City of Petal that incorporate them by reference.

Section 1-17. Fees and Charges

Residential Rental Property License Fee (based on the number of dwelling units for multi-family and apartments or based on the total number of single-family residential rental properties per owner, (i.e. Fred Smith owns nine (9) single-family residential rental units and one (1) ten unit apartment complex-his total license fee is \$200.00 for the two year term.)

Table with 2 columns: License Category and Fee Amount. Categories include One to Three Units, Four to Ten Units, Eleven to Twenty Units, and Over Twenty Units.

Effective Date

This Ordinance shall take effect and be in force thirty (30) days from and after its passage.

The above and foregoing Ordinance, was first reduced to writing, and the same was then introduced and read and a vote was taken thereon, first section by section and then upon the foregoing Ordinance as a whole, with the following result:

Those present and voting "AYE" and in favor of the passage, adoption, and approval of the above and foregoing Ordinance:

- Alderman David Clayton
Alderman Kay Fairley
Alderman James Moore
Alderman Steve Stringer
Alderman Lissa Weaver

Those present and voting "NAY" or against the passage, adoption and approval of this Ordinance:

None

Those present and voting "AYE" and in favor of the adoption of the foregoing Ordinance, as a whole:

- Alderman David Clayton
Alderman Kay Fairley
Alderman James Moore
Alderman Steve Stringer
Alderman Lissa Weaver

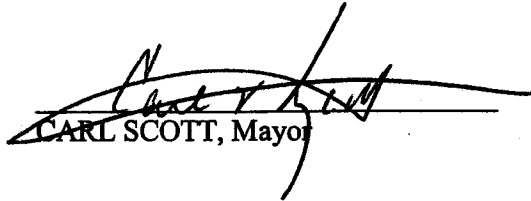
Those present and voting "NAY" and in favor of the adoption of the foregoing Ordinance, as a whole:

None

Whereupon, the foregoing Ordinance be, and the same is hereby passed, adopted, and approved, on this,

EXHIBIT "I"

the 15th day of November, A.D., 2005.


CARL SCOTT, Mayor

(SEAL)

Attest:

JEAN SHEE, City Clerk

AN ORDINANCE FOR ADOPTING WITHIN THE CITY OF PETAL, MISSISSIPPI, TREE PRESERVATION REGULATIONS, ESTABLISHING A CITY TREE COMMISSION, ESTABLISHING PERMIT PROCEDURES, ADOPTING TREE REPLACEMENT STANDARDS, PROVIDING TREE PROTECTION AND EXEMPTIONS, PROVIDING BUFFERS, ENFORCEMENT AND CONTRACTORS, PROVIDING FEES FOR PERMITS AND PENALTIES FOR VIOLATIONS, AND ESTABLISHING AN EFFECTIVE DATE

The purpose of this Ordinance is to protect, preserve, and enhance the forested character and natural resources of the City of Petal, Mississippi ("The City"). The City finds that the presence of trees in the City:

- Improve air quality by reducing carbon dioxide and generating oxygen;
- Provide summer shade and protection from winter winds, thus reducing heating and cooling costs;
- Protect and enhance economic prosperity by promoting the healthy appearance and character of the neighborhoods and City;
- Reduce noise pollution;
- Reduce soil erosion;
- Enhance storm water detention and drainage; and,
- Preserve and enhance property values in the City and its environs.

The policy of the City is to balance the private property rights of landowners with the public health safety, welfare that is promoted by the existence and maintenance of trees in the City.

Section 1-2 Definitions.

When used in this Ordinance, the following terms shall have the following definitions:

Applicant is the owner or representative of an owner of a lot, parcel, or tract on which a Tree Impact Activity is sought.

Caliper is the diameter of a tree when measured at six inches above grade.

City Arborist is an employee or consultant of the City designated by the Mayor who is trained or skilled in the diagnosis of the condition of trees and/or shrubs and their treatment. There may at any time be more than one City Arborist.

Cutting is the falling or removal of a tree, or any other procedure that is likely to cause the death of, or material damage or substantial injury to, a tree. Cutting does not include normal pruning or trimming of trees.

Destroy or Destruction is the actual physical removal, or the effective removal, of a tree through damaging, poisoning, or other direct or indirect action resulting in or likely to result in the death of a tree.

Diameter at Breast Height (DBH) is the diameter of a tree when measured at 54 inches above grade.

Drip line is an artificial line along the ground that conforms to the perimeter of the crown of a tree and projects vertically to the ground.

Person is any public or private individual, group, company, firm, corporation, partnership, association, society, or any other combination.

Priority Tree is any tree qualifying in any of the following categories, which categories are ranked in order of priority:

1. Priority I Tree. Any tree located on any City-owned property, including without limitation roadway and other right-of-way areas.
2. Priority II Tree. Any tree on a lot located within a front or corner side yard of such lot and having a DBH of ten (10) inches or more.
3. Priority III Tree. Any tree on a lot having a DBH of ten inches (10") or more.
4. Any tree qualifying for more than one category of Priority Trees shall be included in the higher priority category for purposes of this Article.

Public Place shall mean public parks, playgrounds, trails, paths and other recreational areas and other public open spaces; public scenic and historic sites; public facilities and their grounds and public right-of-ways.

Removable Tree is any Priority Tree of the crepe myrtle, cypress, dogwood, maple, poplar, or willow varieties, as well as any dead, diseased, or hazardous trees (as determined by the City Arborist).

Replacement Tree is a tree installed pursuant to a tree permit to replace a Priority Tree that an applicant has been authorized to cut or destroy.

Tree Impact Activity is any activity that will or is likely to involve or result in (i) the subdivision of any lot, parcel or tract of land in the City; (ii) any work on a lot for which

If the City Arborist determines that a Priority Tree Plan will likely result in the cutting or destruction of any Priority Tree, the Arborist shall first consult with the applicant to modify the Tree Impact Activity or to take other or additional actions to avoid or minimize such cutting or destruction. If such consultation results in modifications or additional actions that avoid or minimize the cutting or destruction of Priority Trees, then:

- a) Priority I Trees. For each Priority I Tree, the City Arborist shall determine whether the cutting or destruction of the Priority I Tree can be avoided by a reasonable modification to the Tree Impact Activity. If so, the City Arborist shall issue the tree permit subject to such modifications. If the City Arborist determines that no such modification will avoid the cutting or destruction of a Priority I Tree, and that absent such cutting or destruction of a Priority I Tree the applicant cannot make reasonable use of the applicant's lot, parcel, or tract, then the applicant shall receive a tree permit subject to satisfying the tree replacement condition prescribed in the tree permit.
- b) Priority II Trees. No Priority II Trees shall be cut or destroyed unless the applicant demonstrates that such cutting or destruction is necessary to accomplish the Tree Impact Activity (other than the cutting or destruction of a Priority Tree), and no reasonable alternatives exist to effect the Tree Impact Activity without such cutting or destruction. Upon demonstrating the necessity of such cutting or destruction, the applicant shall receive a tree permit, subject to satisfying the tree replacement condition prescribed in the tree permit.
- c) Priority III Trees. If the cutting or destruction of a Priority III Tree is desired, that applicant shall receive a tree permit, subject to satisfying the tree replacement condition prescribed in the tree permit.

When issuing a tree permit, the City Arborist may establish such conditions as may be necessary or appropriate to achieve the purposes of this Ordinance, including without limitation the installation of fencing to protect the drip line of any Priority Tree. Any applicant receiving a tree permit shall be required to comply strictly with the terms and conditions of such tree permit, including the Priority Tree Plan, at the applicant's sole cost and expense.

Notwithstanding anything in this Section to the contrary, to the extent a tree permit is sought for Removable Trees, the City Arborist shall issue the tree permit without any tree replacement obligation.

Any and all tree permits issued per this Ordinance shall be declared null and void if work so permitted is not started within a reasonable time, not to exceed six months. In no case will a permit be valid for more than twelve months. Permits not used within this period will become null and void, and future work will require a new application.

Section 3-4 Tree Replacement Standards

Whenever a tree permit is subject to a tree replacement obligation due to the cutting or destruction of a Priority Tree, the City Arborist shall determine what the tree replacement obligation shall be, which obligation shall be based on the type of Priority Tree affected and subject to the following terms:

Priority I Trees:

- a) If the affected Priority I Tree has a DBH of 4.5 inches or less, the City Arborist may require the applicant to relocate such tree elsewhere on the roadway serving applicant's lot, parcel, or tract.
- b) If the affected Priority I Tree has a DBH in excess of 4.5 inches, or the City Arborist determines that relocation is not desirable or feasible, the City Arborist may require the applicant to pay a tree replacement fee to the City for the installation of a Replacement Tree on any parkway or right-of-way in the City.

Priority II and II Trees:

- a) The City Arborist may require the applicant to install a Replacement Tree at a specific location on the applicant's lot, parcel or tract; provided, however, that no Replacement Tree shall be installed within 25 feet of any existing tree.
- b) If the applicant's lot, parcel, or tract does not have a suitable location to install a Replacement Tree, the City Arborist may require the applicant to pay a tree replacement fee to the City for installation upon the parkway within the same or adjacent block as the applicant's lot, parcel, or tract. The City Manager shall establish a reasonable tree replacement fee on an annual basis.
- c) If the City Arborist determines that (i) there is no suitable location for installing a Replacement Tree on the applicant's lot, parcel, or tract, and (ii) the removal of the Priority Tree will enhance the conditions for other trees on such lot, parcel, or tract, the City Arborist may waive the requirement to provide for a Replacement Tree.

a building permit is required (unless such building permit is limited exclusively to interior work on existing building space); or (iii) the cutting or destruction of a Priority Tree, or taking actions that will likely result in the cutting or destruction of a Priority Tree.

Any term used in this Ordinance that is not defined in this section, but that is defined in the

Petal Zoning Code, shall have the meaning ascribed to it by the Zoning Code.

PART 1: City Tree Commission

Section 2-1 Establishment

There is hereby created and established a City Tree Commission which shall consist of three (3) members, each being a resident citizen of the City, whom shall be appointed and approved by the Mayor and Board of Aldermen.

Section 2-2 Terms of Office; Compensation

The terms of each commissioner shall be three (3) years. In the event of a vacancy of any commissioner's term, whether by resignation or otherwise, any successor shall serve the unexpired portion of said term. No commissioner shall serve more than two consecutive terms. Members shall serve without compensation, unless and except the Mayor and Board of Aldermen approve compensation.

Section 2-3 Duties and Responsibilities.

It shall be the responsibility of the Commission to develop a Comprehensive City Tree Plan and to present said written plan to the Mayor and Board of Aldermen for approval. The Comprehensive City Tree Plan shall be for the care, preservation, pruning, planting, replanting, removal and cutting of any tree within the jurisdiction limits of the City.

The Commission shall meet from time to time as needed and deemed appropriate by the members and a majority of its members shall be a quorum for the transaction of business.

PART 3: Tree Permit Procedures

Section 3-1 Tree Permit Required.

Any person that proposes to undertake any Tree Impact Activity shall be required to obtain a tree permit from the City Arborist prior to the approval or commencement of any Tree Impact Activity.

Section 3-2 Tree Permit Application

Any applicant for a tree permit shall submit an application on a form prescribed by the City Arborist as well as a plan (the "Priority Tree Plan") that:

- a) identifies all Priority Trees on the lot, parcel, or tract, including their location, size (in DBH), species and condition;
- b) indicated the nature and extent of the Tree Impact Activity that is proposed to occur within or likely to interfere with the Drip Line of any Priority Tree;
- c) sets forth in detail the measures to be undertaken to protect any Priority Tree (but not any Removable Trees) on the lot, parcel, or tract.

The City Arborist may allow the Priority Tree Plan to be combined with any other material that may be required in connection with the activity giving rise to the tree permit requirement. In addition, the City Arborist may require an applicant to submit such supplemental information that may reasonably be necessary to conduct a complete review of the application pursuant to this Ordinance.

Section 3-3 Review of Tree Permit Applications; Issuance of Tree Permits

The City Arborist shall review each Priority Tree Plan to determine: (i) whether such plan will likely result in the cutting or destruction of any Priority Tree, (ii) whether such plan minimizes the destruction to or cutting of Priority Trees, and (iii) whether such plan provides adequate protection of each Priority Tree.

If the City Arborist determines that a Priority Tree Plan will neither destroy nor cut any Priority Tree and will provide adequate protection of all Priority Trees, then the Arborist shall issue a tree permit, and the applicant shall be entitled to proceed with the Tree Impact Activity, subject to satisfaction of any other permitting to other requirements of law relating to such activity.

Whenever the City Arborist requires an applicant to install a Replacement Tree on the applicant's lot, parcel, or tract as a condition of a tree permit, such Replacement Tree shall have a caliper of no less than three inches (3").

The City Tree Commission shall develop and submit a list of the kinds and species of trees suitable and desirable for planting and the areas and conditions under which such trees should be planted. The City Planning Commission shall review and approve said list, which as approved shall be known as the "Master Tree List". The City Arborist may prescribe the species of Replacement Tree, provided that such species is one of the species listed on the "Master Tree List". In addition, an applicant shall be required to replace any Replacement Tree that does not survive the second anniversary of its installation.

No trees other than species with a maturity height of less than 35 feet as defined by the City Arborist, shall be planted under or within ten (10) lateral feet of any overhead power line.

PART 4 Tree Protection and Exemption

Section 4-1 Tree Protection during Construction

It shall be a violation of this code for any person in the construction of any structures or other improvements to place solvents, material, construction machinery, or temporary soil deposits within ten (10) feet of any protected tree.

Before development, land clearing, filling of any land alteration, a permit will be required; the developer shall be required to erect suitable protective barriers, and this protection, where required, shall remain until permanent barriers have been erected. Also, during construction, no attachments shall be appended to any of said trees so protected.

No person shall pave with concrete, asphalt or other impervious material within eight inches (8") per inch of DBH of any remaining tree, not to exceed five (5) feet. The City Arborist shall have the discretion to waive this requirement.

Section 4-2 Exemptions

The provisions of this Ordinance shall not apply to any land recognized by the City upon which bona fide agricultural uses or commercial nursery or tree farms, are being conducted, as herein after defined:

- a) Bona Fide Agriculture: Land used to derive income from growing plants or trees, including but not limited to land used principally for timber production, but not including land used principally for another use and incidentally for growing trees or plants for income.
- b) Commercial Nursery or Tree Farm: A licensed plant or tree nursery or farm with trees planted and growing on the premises of the licensee which are for sale or intended sale to the general public in the ordinary course of said licensee's business.
- c) Bona Fide utility construction or maintenance activity within permanent utility easements or franchised areas.

Emergency: In case of emergencies, such as hurricanes, windstorm, flood, freeze or other disasters, the requirements of these regulations may be waived by the City Arborist, upon a finding that such waiver is necessary so that public or private work to restore order in the City will not be impeded.

PART 5 Buffers, Enforcement & Contractors

Section 5-1 Buffers

Natural Stream Buffers:

- a) Perennial streams, defined as streams that contain water in their channels at all times, shall maintain an undisturbed natural buffer for a minimum of 25 feet measured from the edge of the bank.
- b) Intermittent streams, defined as streams that contain water in their channels for only a part of the year, shall maintain an undisturbed natural buffer for a minimum of 10 feet measured from the centerline of the channel.

Protection During Land Disturbance Activities

- a) During authorized land disturbance activities, natural stream buffers shall be clearly demarcated and protected prior to commencement of, and during, construction.
- b) The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the City Arborist.

Section 5-2 Enforcement

The City Planning Department is authorized and shall administer and enforce this Ordinance. Upon approval of the Mayor and Board of Aldermen, the City Building Inspector may serve as the City Arborist.

The City Arborist shall have the authority to regulate all work performed as to any permit issued pursuant to this Ordinance. It shall be unlawful for any person to hinder, prevent, delay or otherwise interfere with the City Arborist while engaged in the execution or enforcement of this Ordinance. Any person subject to the provision of this Ordinance whom seeks injunctive or other relief in a court of competent jurisdiction shall not be subject to the penalties under this Ordinance.

Section 5-3 Tree Contractors

Tree Contractors, as defined by this Ordinance, shall be licensed with the City of Petal. The following shall be required in order to be licensed:

- a) Professional liability insurance in an amount of not less than \$100,000.00.
- b) \$2,000.00 Surety Bond naming City of Petal as beneficiary.
- c) Workman's Compensation Insurance, if applicable.

Persons performing the following activities are exempt from the requirements of this section:

- a) Bona fide commercial timber harvest or logging operations on a tract containing an acre or more of land, and
- b) Site clearance in connection with a development for which site plan approval and/or grading permit had been issued.

PART 6 Fees and Penalties

Section 6-1 Fees

Application and Permit Fee- Residential Lot of 1/2 acre or less.....\$25.00
Plus \$5.00 per tree under consideration

Application and Permit Fee- Residential Lot more than 1/2 acre.....\$50.00
Plus \$5.00 per tree under consideration

Section 6-2 Penalties

- A. A violation of any of the provisions of this Ordinance may result in a civil fine of one hundred dollars (\$100.00) per day per unit for each day that such violation continues up to thirty (30) days, or the maximum amount allowed under the Mississippi Annotated Code of 1972 as amended, whichever is greater.
- B. The City may file a lien against any property if the owner of such property or his agent fails to pay a fine within thirty (30) days of the date in which it was imposed. The amount of the lien may be calculated on the basis of the existing fine plus associated costs including legal fees incurred in connection with this action.
- C. Nothing herein shall prevent the City from seeking any other means available at law or in equity in order to enforce the provisions of this Ordinance.

Section 6-3 Effective Date

This Ordinance shall be take effect and be in force thirty (30) days from and after its passage.

The above and foregoing Ordinance, being an amendment to Ordinance 1991 (75) was first reduced to writing, and the same was then introduced and read and a vote was taken thereon, first section by section and then upon the foregoing amendments to the Ordinance as a whole, with the following results:

**CITY OF PETAL
MINUTE BOOK 25**

EXHIBIT "J"

Those present and voting "AYE" and in favor of the passage, adoption, and approval of the above and foregoing Amendment to Ordinance 1991 (75):

- Alderman David Clayton
- Alderman Kay Fairley
- Alderman James Moore
- Alderman Steve Stringer
- Alderman Liesa Weaver

Those present and voting "NAY" or against the passage, adoption and approval of the this Amendment to Ordinance 1991 (75):

None

Those present and voting "AYE" and in favor of the adoption of the foregoing Amendment to Ordinance 1991 (75), as a whole:

- Alderman David Clayton
- Alderman Kay Fairley
- Alderman James Moore
- Alderman Steve Stringer
- Alderman Liesa Weaver

Those present and voting "NAY" and in favor of the adoption of the foregoing Amendment to Ordinance 1991 (75), as a whole:

None

Whereupon, the foregoing Amendment to Ordinance 1991 (75) be, and the same is hereby passed, adopted, and approved, on this, the 15th day of November, A.D., 2005.


CARL SCOTT, Mayor

(SEAL)

Attest:


JEAN SHEE, City Clerk

Publish: 1 Time DECEMBER 1, 2005

AN ORDINANCE SETTING FORTH AN APPROPRIATE PURPOSE, DETERMINING OCCUPANCY STANDARDS BASED ON THE SIZE OF A RESIDENCE, PROVIDING PENALTIES FOR VIOLATION THEREOF, PROVIDING FOR AN EFFECTIVE DATE, AND FOR RELATED PURPOSES

EXHIBIT "K"

Residential dwellings may be occupied by any one of the following groups of persons or types of families:

- A Persons who are all related to one another by blood, marriage, or adoption (subject to building and bedroom size regulations)
- B Up to four persons who are not all related to one another by blood, marriage, or adoption.
- C Two unrelated persons and any children related to either of them
- D The ordinance also allows up to two persons who may be servants, live-in companions to the elderly or disabled, or "au-pair" employees to occupy the residence in addition to members of the family as defined above, EXCEPT a family as described in B above. 2 Persons who are related includes husbands, wives, parents, children, grandparents, grandchildren, brothers, sisters, aunts, uncles, nephews, nieces, and first cousins (including "step" or "half" such relationships) as demonstrated by official public records such as drivers' licenses, birth or marriage certificates; or by affidavits

Section 1-1. Purpose

Over-occupancy of dwelling units creates health and safety dangers to home occupants and their neighbors. These dangers include fire hazards, spread of disease to occupants and the general population, an opportunity for domestic violence and abuse, effects to mental health, and other impacts on the peace, comfort and safety of residents. To protect against these dangers, the City of Petal has determined it necessary to establish regulations limiting the number of occupants in a residence. These regulations are intended to ensure a good living environment in residential neighborhoods and reduce vehicle congestion, noise and overwhelming of public utilities.

Section 1-2. Determination

The City of Petal completed extensive research in developing this ordinance to ensure the safe occupancy of all dwelling units and found basis in fact in the definition of a family as provided in the international Building Code as adopted by the City of Petal. Thus, the general determination on occupant limitations is based on the size of the house, the number of bedrooms, the relationship of the residents and fire safety standards. Failure to comply with any portion of these requirements constitutes a violation of legal occupancy allowances and the owner(s) as defined herewith are subject to the penalties as established in Section 1-6 of this ordinance;

Owner shall mean any person who, alone or jointly or severally, with others, shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner, or an executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and to the rules and regulations adopted pursuant thereto, to the same extent as if he was the owner.

Section 1-3. Occupancy Standards Based on Size of Residence

The City of Petal limits the number of adult occupants in a house based upon the size of the entire dwelling unit. The following table outlines these limits for single family and multi-family dwellings.

Living Floor Area of Dwelling Unit (in square ft.)	Maximum Number of Adult Occupants*
901 to 1,200	4 adult occupants
1,201 to 1,750	5 adult occupants
1,751 to 2,400	6 adult occupants
2,401 to 3,310	7 adult occupants
3,311 to 4,000	8 adult occupants
4,001 to 4,500	9 adult occupants
4,501 to 5,000	10 adult occupants
>5,000	500 sq. ft. per person

*Adult occupant means any individual 18 years of age or older, living or sleeping in a building, or having possession of space within a building. In a condominium or apartment, the number of adults allowed is calculated by taking the square footage of the unit and dividing by 200. The result gives the number of adults who may live in that unit according to this standard (e.g., 5 adults are allowed a 1,000 square foot unit, though the standards established in Section 1-4 will likely reduce the number allowed).

Section 1-4. Occupancy Standards for Bedrooms

The City of Petal additionally limits the number of adult occupants in a house based upon the number of bedrooms in a dwelling unit. The following table outlines these limits for single family and multi-family dwellings.

Required Bedroom Area	Maximum Number of Occupants*
Bedroom Size in Square Feet	
70	1
100	2
150	3
200	4

*Number of occupants includes adults and children

Section 1-6. Penalties

- A A violation of any of the provisions of this ordinance will result in a civil fine of one hundred dollars (\$100.00) per day per unit for each day that such violation continues up to thirty (30) days, or the maximum amount allowed under the Mississippi Automated Code of 1972 as amended, whichever is greater. Fines will begin from the first day of written notification of any violation of this ordinance.
- B The city may file a lien against the property if the owner of such property or his agent fails to pay a fine within thirty (30) days of the date in which it was imposed. The amount of the Lien may be calculated on the basis of the existing fine plus associated costs including legal fees incurred in connection with this action.
- C Nothing herein shall prevent the city from seeking any other means available at law or in equity in order to enforce this ordinance's provisions

The above and foregoing Ordinance was first reduced to writing, and the same was then introduced and read and a vote was taken thereon, first section by section and then upon the foregoing amendments to the Ordinance as a whole, with the following results:

Those present and voting "AYE" and in favor of the passage, adoption, and approval of the above and foregoing:

- Alderman David Clayton
- Alderman Kay Feikley
- Alderman James Moore
- Alderman Steve Stringer
- Alderman Lissa Weaver

Those present and voting "NAY" or against the passage, adoption and approval of the above and foregoing:

None

Those present and voting "AYE" and in favor of the adoption of the above and foregoing:

- Alderman David Clayton
- Alderman Kay Feikley
- Alderman James Moore
- Alderman Steve Stringer
- Alderman Lissa Weaver

Those present and voting "NAY" and in favor of the adoption of the above and foregoing:

None

Whereupon, the foregoing Ordinance be, and the same is hereby passed, adopted, and approved, on this, the 15th day of November, A.D., 2005.


CARL SCOTT, Mayor

(SEAL)

Attest: 
JEAN ISHEE, City Clerk

Publish 1 time: December 1, 2005

AN ORDINANCE AMENDING ORDINANCE 1982 (54-A1) RESTRICTING SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES, LIMITING TIMES FOR SALE, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, PROVIDING A METHOD OF MEASUREMENT AND FOR RELATED PURPOSES

EXHIBIT "L"

Alderman David Clayton
Alderman Kay Fairley
Alderman James Moore
Alderman Steve Stringer
Alderman Liesa Weaver

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL, MISSISSIPPI:

SECTION I: SECTION 4 OF ORDINANCE 1982 (54) AMENDED:

SECTION 4 of Ordinance 1982 (54) presently reads as follows:

The sale of all alcoholic beverages, beer and light wines, is hereby prohibited from 2:00 A.M. until 7:00A.M., on all days of the week except Sunday; on Sunday, sale of alcoholic beverages, beer or light wines, is hereby prohibited from 2:00 A.M. until 12:00 A.M. In the event that the laws of the State of Mississippi establish more restrictive limitations on the sale of alcoholic beverages, beer and light wines, if any, then State law shall supersede this provision of this Ordinance.

SECTION 4 of Ordinance 1982 (54) is amended to read as follows:

The sale of all alcoholic beverages, beer and light wines, is hereby prohibited from 12:00 P.M. until 7:00 A.M., on all days of the week except Sunday; on Sunday sale of alcoholic beverages, beer or light wines, is hereby prohibited from 12:00 P.M. until 12:00 A.M.. In the event that the laws of the State of Mississippi establish more restrictive limitations on the sale of alcoholic beverages, beer and light wines, if any, then State law shall supersede this provision of this Ordinance.

SECTION II. Ordinance 1982 (54), except as amended be in full force and effect:

Ordinance 1982 (54), Ordinance 1982 (54-A), Ordinance 1982(54-A1) and Ordinance 1982(54-A2) as adopted by the Mayor and Board of Aldermen of the City of Petal except as amended be in full force and effect.

The above and foregoing Ordinance shall take effect and be in force from and after December 15, 2005.

The above and foregoing Ordinance, having been reduced to writing, the same was introduced and read and a vote was taken thereon, first section by section, then upon the Ordinance as a whole with the following results:

Those present and voting "NAY" or against the adoption of any Section of the foregoing Ordinance:

None

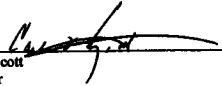
Those present and voting "YEA" and in favor of the adoption of the foregoing Ordinance as a whole:

Alderman David Clayton
Alderman Kay Fairley
Alderman James Moore
Alderman Steve Stringer
Alderman Liesa Weaver

Those present and voting "NAY" or against the adoption of the foregoing Ordinance as a whole:

None

WHEREUPON, the foregoing Ordinance be and the same is hereby passed, adopted and approved on this, the 15th day of November, A.D., 2005.


Carl Scott
Mayor

(Seal)

Attest:


Jean Lhee
City Clerk

Publish one (1) time: November 22, 2005

EXHIBIT "M"

Thanksgiving Holiday

Page 1 of 2



State Holiday
Proclamations

- New Year's Day
- Martin Luther King's Birthday / Robert E. Lee's Birthday
- George Washington's Birthday
- Confederate Memorial Day
- National Memorial Day / Jefferson Davis' Birthday
- Independence Day
- Labor Day
- Armistice Day
- Thanksgiving Holiday
- Christmas Holiday

● State Holidays In Mississippi



Office of the Governor



A Proclamation
by
Governor Haley Barbour

WHEREAS, under the provisions of Section 3-3-7, Mississippi Code of 1972, Thanksgiving Day, Christmas Day and New Year's Day are declared a legal holidays in the State of Mississippi; and

WHEREAS, Christmas Day of 2005 and New Year's Day of 2006 shall each fall on Sunday; and

WHEREAS, during the Thanksgiving holiday and Christmas season, many state employees will spend time with their families in Mississippi and in other states;

NOW, THEREFORE, I, Haley Barbour, Governor of the State of Mississippi, pursuant to the authority vested in me under the Constitution of the State of Mississippi and applicable statutes of Mississippi, including Section 3-3-7, do hereby authorize the closing of all offices of the State of Mississippi on Friday, December 23, 2005, and Monday, December 26, 2005, in observance of **CHRISTMAS DAY**, and Monday, January 2, 2006, in observance of **NEW YEAR'S DAY**.

IN ADDITION, I hereby authorize the closing of all offices of the State of Mississippi, in the discretion of the respective agency heads, on Friday, November 25, 2005, in further observance of the Thanksgiving holiday.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

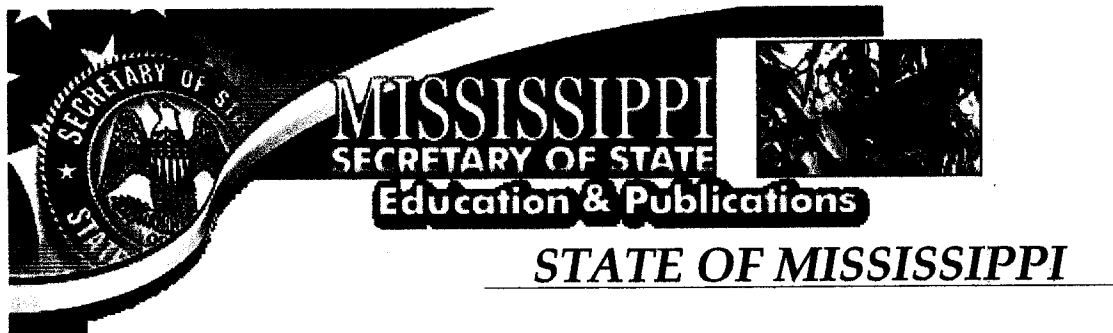
DONE in the City of Jackson, on the 26th day of October in the year of our Lord, two thousand and five, and of the Independence of the United States of America, the two hundred and thirtieth.



EXHIBIT "N"

Thanksgiving Holiday

Page 1 of 2



State Holiday
Proclamations

- New Year's Day
- Martin Luther King's Birthday / Robert E. Lee's Birthday
- George Washington's Birthday
- Confederate Memorial Day
- National Memorial Day / Jefferson Davis' Birthday
- Independence Day
- Labor Day
- Armistice Day
- Thanksgiving Holiday
- Christmas Holiday

State Holidays In
Mississippi



Office of the Governor



A Proclamation
by
Governor Haley Barbour

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IN ADDITION, I hereby authorize the closing of all offices of the State of Mississippi, in the discretion of the respective agency heads, on Friday, November 25, 2005, in further observance of the Thanksgiving holiday.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.



DONE in the City of Jackson, on the 26th day of October in the year of our Lord, two thousand and five, and of the Independence of the United States of America, the two hundred and thirtieth.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

EXHIBIT "O"

Prepared by
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and
Issued and Published Jointly By

[PEPP LOGO] [ACEC LOGO] [ASCE LOGO]

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. 1910-4, 1996 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition). For guidance on the completion and use of this Agreement, see EJCDC Users Guide, No. 1910-50.

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1426 King Street, Alexandria, VA 22314

American Consulting Engineers Council
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers
345 East 47th Street, New York, NY 10017

EJCDC No. 1910-4 (1996 Edition)

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**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of NOVEMBER 28, 2004 ("Effective Date") between

CITY OF PETAL

(OWNER) and

SHOVI DEARMAN & WAITS, INC.

(ENGINEER).

OWNER issues to ENGINEER a Continuing change order as a result of Hurricane Katrina with FEMA under MDMA under the U.S. Army Corps of Engineers. Continuation of efforts shall be to document debris cleanup in the City of Petal. It shall include documentation of and assessment of eligible items of removal and determination of quantities.

All items shall be performed in addition to the FEMA Public Assistance Guide (FEMA-322/October 1997)

(Project).

OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows:

D. OWNER and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ENGINEER's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

ation
igation to provide further services under
may be terminated:

or cause,

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

b. By ENGINEER:

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

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

3) ENGINEER shall have no liability to OWNER on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and

Standard Form of Agreement
Between Owner and Engineer for Professional Services
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proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

a. By OWNER effective upon the receipt of notice by ENGINEER.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

6.07 Controlling Law

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

6.08 Successors, Assigns, and Beneficiaries

A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

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

C. Unless expressly provided otherwise in this Agreement:

CITY OF PEI
MINUTE BOOK

EXHIBIT "O"

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

6.09 Dispute Resolution

A. OWNER and ENGINEER agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under Exhibit H or other provisions of this Agreement, or under law. In the absence of such an agreement, the parties may exercise their rights under law.

B. If and to the extent that OWNER and ENGINEER have agreed on a method and procedure for resolving disputes between them arising out of or relating to this Agreement, such dispute resolution method and procedure is set forth in Exhibit H, "Dispute Resolution."

6.10 Hazardous Environmental Condition

A. OWNER represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to

identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the 30 day period is in full compliance with applicable Laws and Regulations.

E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

6.11 Allocation of Risks

A. Indemnification

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone

Standard Form of Agreement
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claiming by, through, or under OWNER for any cost, loss, or damages caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that ENGINEER's negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.

4. In addition to the indemnity provided under paragraph 6.11.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.11.A.4 shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

5. The indemnification provision of paragraph 6.11.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit I, "Allocation of Risks," if any.

6.12 Notices

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

6.13 Survival

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

6.14 Severability

y provision or part of the Agreement held to be voidable under any Law or Regulations shall be void, and all remaining provisions shall

continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

6.15 Waiver

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

6.16 Headings

A. The headings used in this Agreement are for general reference only and do not have special significance.

ARTICLE 7 - DEFINITIONS

7.01 Defined Terms

A. Whenever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. **Addenda**—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. **Additional Services**—The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.

3. **Agreement**—This "Standard Form of Agreement between OWNER and ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.

4. **Application for Payment**—The form acceptable to ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. **Asbestos**—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

6. **Basic Services**—The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.

7. **Bid**—The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. **Bidding Documents**—The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. **Change Order**—A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.

10. **Construction Agreement**—The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.

11. **Construction Contract**—The entire and integrated written agreement between the OWNER and Contractor concerning the Work.

12. **Construction Cost**—The cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by OWNER to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. **Contract Documents**—Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the

Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. **Contract Price**—The moneys payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. **Contract Times**—The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

16. **Contractor**—An individual or entity with whom OWNER enters into a Construction Agreement.

17. **Correction Period**—The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. **Defective**—An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.

19. **Documents**—Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ENGINEER to OWNER pursuant to this Agreement.

20. **Drawings**—That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

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1.01 Scope

A. ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibit A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.

C. If authorized by OWNER, ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 General

A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

ARTICLE 3 - TIMES FOR RENDERING SERVICES

3.01 General

A. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.

B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

3.02 Suspension

A. If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if ENGINEER's services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

B. If ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

ARTICLE 4 - PAYMENTS TO ENGINEER

4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER

A. For Basic Services, OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.

B. For Additional Services, OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

C. For Reimbursable Expenses, in addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.

4.02 Other Provisions Concerning Payments

A. Preparation of Invoices. Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.

B. Payment of Invoices. Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefor, the amount due ENGINEER will be increased at the rate of

1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, OWNER may, after giving seven days written notice to ENGINEER, suspend services under this Agreement until OWNER has paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

C. Disputed Invoices. In the event of a disputed or unaccepted invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. Payments Upon Termination

1. In the event of any termination under paragraph 4.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

E. Records of ENGINEER's Costs. Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.

F. Legislative Action. In the event of legislative action after the Effective Date of the Agreement by any level of government that imposes taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

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5.01 Opinions of Probable Construction Cost

A. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

5.02 Designing to Construction Cost Limit

A. If a Construction Cost Limit is established between OWNER and ENGINEER, such Construction Cost Limit and a statement of ENGINEER's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.

5.03 Opinions of Total Project Costs

A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

ARTICLE 6 - GENERAL CONSIDERATIONS

6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranty, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ENGINEER shall correct such deficiencies without additional compensation except to the

extent such action is directly attributable to deficiencies in OWNER-furnished information.

C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the performance or furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

D. ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.

E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ENGINEER.

G. Prior to the commencement of the Construction Phase, OWNER shall notify ENGINEER of any variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other notice or certification that ENGINEER will be requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.

H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

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CITY OF PEORIA
MINUTE BOOK

EXHIBIT "C"

I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.

L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Documents" as prepared by the Engineers Joint Contract Documents Committee (Document No. 1910-1, 1995 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit I.

6.02 Authorized Project Representatives

A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

6.03 Design without Construction Phase Services

A. Should OWNER provide Construction Phase services with other OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.

B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

6.04 Use of Documents

A. All Documents are instruments of service in respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.

B. Copies of OWNER-furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Documents data stored in electronic media format are documents and are modified inadvertently or otherwise without authorization of the data's creator; the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data files transmitted. Any issues detected within the 60-day acceptance period will be corrected by the party delivering

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the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. Any verification or adaptation of the Documents for extension of the Project or for any other project will enable ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

6.05 Insurance

A. ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."

B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." OWNER shall cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Project.

C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

This is EXHIBIT A, consisting of 7 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Professional Services dated 11-28-05.

OWNER *[Signature]*
ENGINEER *[Signature]*

CITY OF PETALUMA
MINUTE BOOK 25

EXHIBIT "C"

upon successful completion of the Bidding and Negotiating Phase and upon written authorization from OWNER, ENGINEER shall:

1. *General Administration of Construction Contract.* Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.

2. *Resident Project Representative (RPR).* Provide the services of an RPR at the Site to assist the ENGINEER and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not extend ENGINEER's responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.

3. *Selecting Independent Testing Laboratory.* Assist OWNER in the selection of an independent testing laboratory to perform the services identified in paragraph B2.01.0.

4. *Pre-Construction Conference.* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.

5. *Baselines and Benchmarks.* As appropriate, establish baselines and benchmarks for locating the Work which in ENGINEER's judgment are necessary to enable Contractor to proceed.

6. *Visits to Site and Observation of Construction.* In connection with observations of Contractor's work in progress while it is in progress:

a. Make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the Work. Such visits and observations by ENGINEER, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress or to involve detailed inspections of Contractor's work in progress beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and such observations, ENGINEER will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work.

b. The purpose of ENGINEER's visits to, and representation by the Resident Project Representative, if any, at the Site, will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

ENGINEER's Services

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. ENGINEER shall provide Basic and Additional Services as set forth below.

PART 1 - BASIC SERVICES

A1.01 Study and Report Phase

A. Not Applicable

A1.02 Preliminary Design Phase

Applicable

Design Phase

Applicable

A1.04 Bidding or Negotiating Phase

A. After acceptance by OWNER of the Bidding Documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by OWNER to proceed, ENGINEER shall:

1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-Bid conferences, if any, and receive and process Contractor deposits or charges for the Bidding Documents.

2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.

3. Consult with OWNER as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.

4. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables:

5. Attend the Bid opening, prepare Bid tabulation sheets, and assist OWNER in evaluating Bids or proposals and in assembling and awarding contracts for the Work.

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors (except as may be required if Exhibit F is a part of this Agreement).

7. *Defective Work.* Recommend to OWNER that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

8. *Clarifications and Interpretations; Field Orders.* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

9. *Change Orders and Work Change Directives.* Recommend Change Orders and Work Change Directives to OWNER, as appropriate, and prepare Change Orders and Work Change Directives as required.

10. *Shop Drawings and Samples.* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. ENGINEER has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to ENGINEER.

11. *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of paragraph A1.02.A.2 of this Exhibit A.

12. *Inspections and Tests.* Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the context or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.

13. *Disagreements between OWNER and Contractor.* Render formal written decisions on all claims of OWNER and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of Contractor's work. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

14. *Applications for Payment.* Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in paragraph A1.05.A.6.a are expressly subject to the limitations set forth in paragraph A1.05.A.6.b and other express or general limitations in this Agreement and elsewhere.

b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been alive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond

the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

15. Contractor's Completion Documents.

a. Receive and review maintenance and operating instructions, schedules, and guarantees.

b. Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under paragraph A1.05.A.10, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such ENGINEER's review will be limited as provided in paragraph A1.05.A.10.

c. ENGINEER shall transmit these documents to OWNER.

16. *Substantial Completion.* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, conduct an inspection to determine if the Work is Substantially Complete. If after considering any objections of OWNER, ENGINEER considers the Work Substantially Complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.

17. Additional Tasks. Perform or provide the following additional Construction Phase tasks or deliverables:

18. *Final Notice of Acceptability of the Work.* Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice in the form attached hereto as Exhibit E (the "Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of paragraph A1.05.A.14.b) to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.

B. *Duration of Construction Phase.* The Construction Phase will commence with the execution of the first Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by ENGINEER for final payment to Contractor. If the Project involves more than one prime contract as indicated in paragraph A1.03.C, Construction Phase services may be rendered at different times in respect to the separate contracts.

C. *Limitation of Responsibilities.* ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. ENGINEER shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.06 Post-Construction Phase

A. Upon written authorization from OWNER, ENGINEER, during the Post-Construction Phase, shall:

1. Provide assistance in connection with the testing and adjusting of Project equipment or systems.

2. Assist OWNER in training OWNER's staff to operate and maintain Project, equipment, and systems.

21. **Effective Date of the Construction Agreement**—The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. **Effective Date of the Agreement**—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. **ENGINEER'S Consultants**—Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER'S Consultants.

24. **Field Order**—A written order issued by ENGINEER which directs minor changes in the Contract but which does not involve a change in the Contract Price or the Contract Times.

25. **General Conditions**—That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.

26. **Hazardous Environmental Condition**—The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

27. **Hazardous Waste**—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

28. **Laws and Regulations; Laws or Regulations**—Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

29. **PCB's**—Polychlorinated biphenyls.

30. **Petroleum**—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

31. **Radioactive Materials**—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

32. **Record Drawings**—The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on records documents furnished by Contractor to ENGINEER and which were annotated by Contractor to show changes made during construction.

33. **Reimbursable Expenses**—The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.

34. **Resident Project Representative**—The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any employee of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.

35. **Samples**—Physical samples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

36. **Shop Drawings**—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to ENGINEER to illustrate some portion of the Work.

37. **Site**—Limits or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.

**CITY OF PETAQUONNET
MINUTE BOOK**

EXHIBIT "O"

38. **Specifications**—That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain descriptive details applicable thereto.

39. **Substantial Completion**—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. **Supplementary Conditions**—That part of the Contract Documents which amends or supplements the General Conditions.

41. **Total Project Costs**—The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of bond, right-of-way, or compensation for changes to properties, or OWNER's costs for legal, accounting, insurance, consulting or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.

42. **Work**—The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, handling, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.

43. **Work Change Directive**—A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or service in the Work, or responding to differing or unforeseen substance or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work

Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

44. **Written Amendments**—A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS

- 8.01 Exhibits Included
- A. Exhibit A, "ENGINEER'S Services," consisting of 7 pages.
 - B. Exhibit B, "OWNER'S Responsibilities," consisting of 3 pages.
 - C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 2 pages.
 - D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 4 pages.
 - E. Exhibit E, "Notice of Acceptability of Work," consisting of 0 pages.
 - F. Exhibit F, "Construction Cost Limit," consisting of 0 pages.
 - G. Exhibit G, "Insurance," consisting of 0 pages.
 - H. Exhibit H, "Dispute Resolution," consisting of 0 pages.
 - I. Exhibit I, "Allocation of Risks," consisting of 0 pages.
 - J. Exhibit J, "Special Provisions," consisting of 0 pages.

8.02 Total Agreement

A. This Agreement (consisting of pages 1 to _____ inclusive, together with the Exhibits Identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

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

OWNER: City of Pettaquonnet
 By: Mayor Carl Best
 Title: Mayor
 Date Signed: 11-15-05
 Address for giving notices:
P.O. Box 564
Pettaquonnet, ME 03963
 Designated Representative (paragraph 6.02A):
Mayor Carl Best
 Title: Mayor
 Phone Number: 601-545-4500
 Facsimile Number: _____
 E-Mail Address: _____

ENGINEER: Michael T. Wain, P.E., P.L.S.
 By: Michael T. Wain, P.E., P.L.S.
 Title: Vice President
 Date Signed: 11-28-05
 Address for giving notices:
P.O. Box 1711
Hennepine, ME 03943-1711
 Designated Representative (paragraph 6.02A):
Shan E. McInnes, P.E.
 Title: Project Engineer
 Phone Number: 601-544-1821
 Facsimile Number: 601-544-8501
 E-Mail Address: _____

F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ENGINEER reasonably requests.
3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project cost review, value engineering, and review.

to ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

K. designates a construction manager or an individual or entity other than, or in addition to, ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ENGINEER.

M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:

1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.
2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

Page 2 of 3 Pages
(Exhibit B - OWNER's Responsibilities)

SUGGESTED FORMAT
(for use with 1910-1, 1996 Edition)

This is EXHIBIT C, consisting of 2 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Professional Services dated 1/28/05.

OWNER [Signature]
ENGINEER [Signature]

Payments to ENGINEER for Services and Reimbursable Expenses

SUGGESTED FORMAT
(for use with 1910-1, 1996 Edition)

C4.02 For Basic Services Having an Undetermined Scope - Standard Hourly Rates Method of Payment

A. OWNER shall pay ENGINEER for Basic Services having an undetermined scope as follows:

1. **Resident Project Representative Services.** For services of ENGINEER's Resident Project Representative, if any, under paragraph A1.05A.2.a of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any.

2. **Post-Construction Phase Services.** For Post-Construction Phase services under paragraph A1.06 of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any.

C4.03 For Additional Services

A. OWNER shall pay ENGINEER for Additional Services as follows:

1. **General.** For services of ENGINEER's employees engaged directly on the Project pursuant to paragraph A2.01 or A2.02 of Exhibit A, except for a consultant or witness under paragraph 0, an amount equal to the cumulative hours of Project by each class of ENGINEER's

employees times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any.

2. **Serving as a Witness.** For services performed by ENGINEER's employees as witnesses giving testimony in any litigation, arbitration, or other legal or administrative proceeding under paragraph A2.01.A.20, at the rate of \$ 1,500.00 per day or any portion thereof (but compensation for time spent in preparing to testify in any such litigation, arbitration, or proceeding will be on the basis provided in paragraph C4.03.A.1). Compensation for ENGINEER's Consultants for such services will be on the basis provided in paragraph C4.06.

C4.04 For Reimbursable Expenses (N/A)

A. When not included in compensation for Basic Services under paragraph C4.01, OWNER shall pay ENGINEER for Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.

B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A, and, if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred

Page 1 of 2 pages
(Exhibit C - Basic Services With Determined Scope - Salary Costs Times a Factor Method of Payment)

EXHIBIT "O"

Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01 Q and P.

R. Perform or provide the following additional services:

for computer time and the use of other highly specialized equipment.

C. The amounts payable to ENGINEER for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by ENGINEER, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a Factor of 1.3.

D. The Reimbursable Expenses Schedule will be adjusted annually (as of 01/01/03) to reflect equitable changes in the compensation payable to ENGINEER.

C4.05 Standard Hourly Rates

A. Standard Hourly Rates are set forth in Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.

B. The Standard Hourly Rates will be adjusted annually (as of 01/01/05) to reflect equitable changes in the compensation payable to ENGINEER.

C4.06 For ENGINEER's Consultant's Charges

A. Whenever compensation to ENGINEER herein is stated to include charges of ENGINEER's Consultants, those charges shall be the amounts billed by ENGINEER's Consultants to ENGINEER times a Factor of 1.3.

C4.07 Factors

A. The external Reimbursable Expenses and ENGINEER's Consultant's Factors include ENGINEER's overhead and profit associated with ENGINEER's responsibility for the administration of such services and costs.

C4.08 Other Provisions Concerning Payment

A. **Progress Payments.** The portion of the amounts billed for ENGINEER's services which are related to the services identified in paragraphs C4.02 and C4.03, will be during the billing period based on the cumulative hours charged to the Project by each class of ENGINEER's employees times the Standard Hourly Rate for each class plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any.

B. **Extended Contract Times.** Should the Contract Times to complete the Work be extended beyond the period identified in paragraph C4.01, payment for ENGINEER's services shall be continued based on the Standard Hourly Rates Method of Payment.

C. Estimated Compensation Amounts

1. ENGINEER's estimate of the amounts that will become payable for Basic Services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to ENGINEER under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to ENGINEER that a compensation amount thus estimated will be exceeded, ENGINEER shall give OWNER written notice thereof. Promptly thereafter OWNER and ENGINEER shall review the matter of services remaining to be performed and compensation for such services. OWNER shall either agree to such compensation exceeding said estimated amount or OWNER and ENGINEER shall agree to a reduction in the remaining services to be rendered by ENGINEER, so that total compensation for such services will not exceed said estimated amount when such services are completed. If ENGINEER exceeds the estimated amount before OWNER and ENGINEER have agreed to an increase in the compensation due ENGINEER or a reduction in the remaining services, the ENGINEER shall be paid for all services rendered hereunder.

Page 1 of 2 pages
(Exhibit C - Basic Services With Determined Scope - Salary Costs Times a Factor Method of Payment)

3. Assist OWNER in developing procedures for control of the operation and maintenance of, and record keeping for Project equipment and systems.

4. Together with OWNER, visit the Project to observe any apparent defects in the Work, assist OWNER in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of Defective Work, if present.

5. Perform or provide the following additional Post-Construction Phase tasks or deliverables:

6. In company with OWNER or OWNER's representative, provide an inspection of the Project within one month before the end of the Correction Period to ascertain whether any portion of the Work is subject to correction.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate at the end of the Correction Period.

PART 2 - ADDITIONAL SERVICES

A2.01 Additional Services Requiring OWNER's Authorization in Advance

A. If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by OWNER as indicated in Article 4 of the Agreement.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental statements and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in site, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other cause beyond ENGINEER's control.

4. Services resulting from OWNER's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in paragraph A1.01.A.4.

5. Services required as a result of OWNER's providing incomplete or incorrect Project information with respect to Exhibit B.

6. Providing renderings or models for OWNER's use.

7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.

8. Furnishing services of ENGINEER's Consultants for other than Basic Services.

9. Services attributable to more prime construction contracts than specified in paragraph A1.03.C.

Page 5 of 7 Pages
(Exhibit A - ENGINEER'S Services)

4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.

5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by OWNER prior to Substantial Completion.

6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.

Page 7 of 7 Pages
(Exhibit A - ENGINEER'S Services)

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EXHIBIT "C"

10. Services during out-of-town travel required of ENGINEER other than for visits to the Site or OWNER's office.

11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project review, value engineering, and constructability review by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.

12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by OWNER for the Work or a portion thereof.

13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.

14. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.

15. Providing construction surveys and staking to enable Contractor to perform its work other than as required under paragraph A1.05.A.5, and any type of property surveys or related engineering services needed for the transfer of interests in real property, and providing other special field surveys.

16. Providing Construction Phase services beyond the Contract Times set forth in Exhibit C.

17. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.

18. Preparing and furnishing to OWNER Record Drawings showing appropriate record information based on Project measured record documents received from Contractor.

19. Preparation of operation and maintenance manuals.

20. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.

21. Providing more extensive services required to enable ENGINEER to issue notices or certifications requested by OWNER under paragraph 6.01.G of the Agreement.

22. Other services performed or furnished by ENGINEER not otherwise provided for in this Agreement.

A2.02 Required Additional Services

A. ENGINEER shall perform or furnish, without requesting or receiving specific advance authorization from OWNER, the Additional Services of the types listed below. ENGINEER shall advise OWNER in writing promptly after starting any such Additional Services.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by OWNER so as to make the compensation commensurate with the extent of the Additional Services rendered.

2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.

3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.

Page 6 of 7 Pages
(Exhibit A - ENGINEER'S Services)

SUGGESTED FORMAT (for use with 1910-1, 1996 Edition)

This is EXHIBIT B, consisting of 3 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Professional Services dated _____.

OWNER _____
ENGINEER _____

OWNER'S RESPONSIBILITIES

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:

A. Provide ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and operability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.

B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following ENGINEER's assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.

2. Zoning, deed, and other land use restrictions.

3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.

5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.

6. Data or computations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.

E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

Page 1 of 3 Pages
(Exhibit B - OWNER'S RESPONSIBILITIES)

SUGGESTED FORMAT
(for use with No. 1910-1, 1996 Edition)

This is EXHIBIT D, consisting of 4 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Professional Services dated 11-28-05.

OWNER [Signature]
ENGINEER [Signature]

EXHIBIT "O"

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Paragraph 1.01C of the Agreement is amended and supplemented to include the following agreement of the parties:

D6.02 Resident Project Representative

A. ENGINEER shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist ENGINEER in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Exhibit D may provide full time representation or may provide representation to a lesser degree.

such additional observations of Contractor's work in progress and field checks of materials and equipment by the ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work. ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, control, or have control over the Contractor's Work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in section A.1.05 of Exhibit A of the Agreement are applicable.

C. The duties and responsibilities of the RPR are limited to those of ENGINEER in the Agreement with the OWNER and in the Contract Documents, and are further limited and described as follows:

1. **General:** RPR is ENGINEER's agent at the Site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with ENGINEER and Contractor, keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.
2. **Schedules:** Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with ENGINEER concerning acceptability.
3. **Conferences and Meetings:** Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

4. **Liaison:** a. Serve as ENGINEER's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the Contract Documents.

b. Assist ENGINEER in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's on-Site operations.

c. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.

5. **Interpretation of Contract Documents:** Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by ENGINEER.

6. **Shop Drawings and Samples:**

a. Record date of receipt of Samples and approved Shop Drawings.

b. Receive Samples which are furnished at the Site by Contractor, and notify ENGINEER of availability of Samples for examination.

c. Advise ENGINEER and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by ENGINEER.

7. **Modifications:** Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to Contractor in writing decisions as issued by ENGINEER.

8. **Review of Work and Rejection of Defective Work:**

a. Conduct on-Site observations of Contractor's work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.

b. Report to ENGINEER whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

9. **Inspections, Tests, and System Startups:**

a. Consult with ENGINEER in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.

b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate OWNER's personnel, and that Contractor maintains adequate records thereof.

c. Observe, record, and report to ENGINEER appropriate details relative to the test procedures and systems startups.

d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to ENGINEER.

10. **Records:**

a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project related documents.

b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.

c. Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.

d. Maintain records for use in preparing Project documentation.

e. Upon completion of the Work, furnish original set of all RPR Project documentation to ENGINEER.

11. **Reports:**

a. Furnish to ENGINEER periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

b. Draft and recommend to ENGINEER proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

c. Furnish to ENGINEER and OWNER copies of all inspection, test, and system startup reports.

d. Report immediately to ENGINEER the occurrence of any Site accidents, any Hazardous Environmental Conditions, emergencies, or acts of God endangering the Work, and property damaged by fire or other causes.

12. **Payment Requests:** Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. **Certificates, Operation and Maintenance Manuals:** During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to ENGINEER for review and forwarding to OWNER prior to payment for that part of the Work.

14. **Completion:**

a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.

b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.

c. Participate in a final inspection in the company of ENGINEER, OWNER, and Contractor and prepare a final list of items to be completed or corrected.

d. Observe whether all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.

3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.

4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.

5. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of OWNER or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by ENGINEER.

7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

8. Authorize OWNER to occupy the Project in whole or in part.

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