

PUBLIC WORKS DEPARTMENT

Richard Sullivan, Director

ENGINEERING DIVISION

Damon Torricelli, P.E. City Engineer



Post Office Box 429
Biloxi, Mississippi 39533
Phone: (228) 435-6265
(228) 435-6269
Fax: (228) 435-6179

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**GENERAL NOTES
FOR STORMWATER MANAGEMENT PLANS**

Notes

The following notes shall be included on the erosion control plan that is submitted to the City, not all of the notes will be applicable at all times.

1. The placement of erosion and sediment control Best Management Practices (BMPs) shall be in accordance with the Mississippi Department of Quality's *Planning and Design Manual for the Control of Erosion, Sediment and Stormwater*.
2. Natural vegetation shall be maintained and protected wherever possible.
3. All construction traffic shall enter/exit the site through the construction entrance, a construction entrance is required at all access points on the site.
4. Contractor is responsible for maintaining erosion controls throughout the duration of the project.
5. Temporary or permanent vegetative practices shall be implemented within seven calendar days when a disturbed area will be left undisturbed for thirty days or more.
6. Temporary erosion and sediment controls shall not be removed until permanent erosion controls are established on all disturbed areas. Final approval on the project will not be made until all temporary erosion controls are removed and permanent erosion controls are effectively established.
7. All equipment repair and maintenance shall be done offsite.
8. Receptacles shall be provided to properly dispose of all trash and waste. All construction debris shall be picked up at the end of each day and shall be removed completely from the site at the end of the project.
9. Sanitary facilities shall be provided on-site for all employees.
10. Temporary erosion and sediment controls shall be installed prior to the start of any work. If it will be required to remove them temporarily due to construction activities, once those activities are completed or at the end of the work day, the temporary controls shall be reinstalled immediately.

Engineers Checklist for Stormwater Management

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11. All erosion controls shall be installed in accordance with the details.
12. Additional erosion and sediment controls may be deemed necessary if the controls found in this Stormwater Management Plan are found to be ineffective.
13. Accumulated sediment shall be removed from controls when it reaches $\frac{1}{2}$ the height of the control. The sediment shall be properly disposed of so as not to cause sedimentation in another location.
14. Erosion and sediment controls shall be inspected weekly and following any rain event. Non-functioning, ineffective or damaged controls shall be repaired, replaced or supplemented with functional controls within 24 hours of discovery.
15. The contractor is responsible for the removal of any sediment that migrates into the storm drain system.
16. The contractor is responsible for the removal of any sediment or construction debris that is tracked onto adjacent paved areas. Adjacent streets shall be kept clean throughout construction and shall be cleaned with a street-sweeper or similar technique immediately upon discovery of sediment. Washing down of the street or any paved areas is not allowed.
17. Any sediment that has migrated offsite whether onto public or private property shall be removed immediately upon discovery.
18. Certificate of Development Compliance shall not be approved until all permanent erosion controls are established and temporary erosion controls are able to be removed.

Submit only upon request from MDEQ

Part X.



SMALL CONSTRUCTION NOTICE OF INTENT (SCNOI)

GENERAL NPDES PERMIT MSR15 (Number to be assigned by MDEQ if submitted)

Prior to the commencement of small construction activity (see Small Construction General Permit Part I. B.), the owner or operator of a small construction project must complete this form and develop a Storm Water Pollution Prevention Plan (SWPPP) as required by Part III of Mississippi's Small Construction General Permit. This SCNOI and SWPPP shall be submitted to the Mississippi Department of Environmental Quality (MDEQ) only upon request from MDEQ; however, the SCNOI and SWPPP must be maintained at the permitted site or locally available in case inspector review is necessary. Attachments with this SCNOI must include: a USGS quad map or copy showing site location (only if required to be submitted to MDEQ) and a Storm Water Pollution Prevention Plan (SWPPP). All questions must be answered – answer "NA" if the question is not applicable.

PROJECT INFORMATION

OWNER CONTACT PERSON:

OWNER COMPANY NAME:

OWNER STREET (P.O. BOX):

OWNER CITY:

STATE: ZIP:

OWNER PHONE # (INCLUDE AREA CODE):

OPERATOR (if different from owner) CONTACT PERSON:

OPERATOR COMPANY:

OPERATOR STREET (P.O. BOX):

OPERATOR CITY:

STATE: ZIP:

OPERATOR PHONE # (INCLUDE AREA CODE):

PROJECT NAME:

DESCRIPTION OF CONSTRUCTION ACTIVITY:

ACREAGE DISTURBED (to be covered by this permit must be less than five (5) acres):

PHYSICAL SITE ADDRESS (IF NOT AVAILABLE INDICATE THE NEAREST NAMED ROAD):

STREET:

CITY: COUNTY:

ZIP:

NEAREST NAMED RECEIVING STREAM:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature

Date Signed

Printed Name

Title

This application shall be signed according to the Small Construction General Permit, Part V. E.

If requested, mail to: Chief, Environmental Permits Division; Mississippi Department of Environmental Quality
P.O. Box 10385; Jackson, MS, 39289-0385

**State of Mississippi
Mississippi Department of
Environmental Quality (MDEQ)
Office of Pollution Control (OPC)
Water Pollution Control
STORM WATER
SMALL CONSTRUCTION GENERAL PERMIT**

THIS CERTIFIES THAT

**SMALL CONSTRUCTION PROJECTS (EQUAL TO OR GREATER THAN ONE
ACRE AND LESS THAN FIVE ACRES) ARE GRANTED PERMISSION TO
DISCHARGE STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY
UNDER THE TERMS AND CONDITIONS OF THIS PERMIT**

INTO

WATERS OF THE STATE OF MISSISSIPPI

in accordance with effluent limitations, inspection requirements and other conditions set forth in Parts I through VII hereof. This permit is issued in accordance with the provisions of the Mississippi Water Pollution Control Law (Section 49-17-1 et seq., Mississippi Code of 1972), and the regulations and standards adopted and promulgated thereunder, and under authority granted pursuant to Section 402(b) of the Federal Water Pollution Control Act.

MISSISSIPPI ENVIRONMENTAL QUALITY PERMIT BOARD

AUTHORIZED SIGNATURE

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

**Permit Issued: March 11, 2003
Permit Expires: February 29, 2008**

Permit No. MSR15

**STORM WATER SMALL CONSTRUCTION
GENERAL NPDES PERMIT**

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Part I. Permit Applicability and Authorization

- A. Permit Area.** The permit covers all areas of the State of Mississippi.
- B. Covered Discharges.** Discharges composed entirely of storm water from small construction activities, except as noted in Part 1. E., including clearing, grading, excavating and other land disturbing activities equal to or greater than one (1) acre and less than five (5) acres.¹ These discharges are automatically designated as small construction activities under the National Pollutant Discharge Elimination System (NPDES) storm water program and are automatically covered under this permit. Small construction activities disturbing less than one (1) acre are designated if:
- The project is part of a larger common plan of development or sale with a cumulative planned disturbance of equal to or greater than one (1) acre and less than five (5) acres (for example, individual or commercial lots that are part of a subdivision or a commercial development that initially impacts less than one (1) acre but will ultimately exceed the one (1) acre threshold²), or
 - The Executive Director of the Mississippi Department of Environmental Quality (MDEQ) designates the construction activity based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.
- Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility (for example, existing ditches, channels, or other similar storm water conveyances, as well as routine grading of existing dirt roads, asphalt overlays of existing roads, and other similar maintenance activities).
- C. Obtaining Authorization.** Owners or operators are authorized to discharge storm water associated with small construction activity under the terms and conditions of this permit upon commencement of small construction land disturbing activities (i.e., Construction may begin after development of the required Storm Water Pollution Prevention Plan (SWPPP) and the completion of the Small Construction Notice of Intent (SCNOI)).
- D. On-going Construction Activities.** Projects that are on-going as of March 10, 2003 and are equal to or greater than one (1) acre and less than five (5) and do not have coverage under Construction General Permit MSR10 must obtain coverage by complying with the terms and conditions of this permit.
- E. Allowable Non-Storm Water Discharges.** Owner or operators are authorized for the following non-storm water discharges. Except for flows from fire fighting activities, sources of non-storm water below that are combined with storm water discharges associated with construction activity must be identified in the Storm Water Pollution Prevention Plan (SWPPP). The SWPPP must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.
- Discharges from fire-fighting activities
 - Fire hydrant flushings
 - Waters used to wash vehicles where detergents are not used
 - Water used to control dust
 - Potable water sources including water line flushings
 - Routine external building wash down that does not use detergents
 - Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used
 - Uncontaminated air conditioning or compressor condensate
 - Uncontaminated ground water or spring water
 - Foundation or footing drains where flows are not contaminated with process materials such as solvents

¹This includes the total area disturbed over the course of the project. For home sites - a minimum of 10,000 ft² per home site or the entire lot, if smaller, shall be included.

²For subdivision development, if the total acreage disturbed for the entire development is 5 acres or greater then all lots are covered by Mississippi's Storm Water Construction General Permit for construction activity over 5 acres (Large Construction).

F. **Responsibility for Permit Compliance.** The owner(s) of the property and any operator(s) associated with small construction activity on the property shall have joint and several responsibility for compliance with this permit.

G. **This Permit Does Not Authorize:**

- **Discharges of hazardous substances or oil.** This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.
- **Post Construction Discharges.** This permit does not authorize storm water discharges that originate from the site after construction activities have been completed and the site has undergone final stabilization.
- **Discharges Covered by Another Permit.** This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit in accordance with Part I. H. of this permit.
- **Discharges Threatening Water Quality.** This permit does not authorize storm water discharges from construction sites that the Executive Director determines will cause, or have reasonable potential to cause or contribute to, violations of water quality standards. Where such determinations have been made, the Mississippi Environmental Quality Permit Board (Permit Board) may notify the owner or operator that an individual permit application is necessary in accordance with Part I. H. of this permit. However, the Permit Board may authorize coverage under this permit after appropriate controls and implementation procedures designed to bring the discharges into compliance with water quality standards have been included in the Storm Water Pollution Prevention Plan.
- **Discharges to Impaired Receiving Waters.** The SWPPP must specifically identify Best Management Practices (BMPs) which ensure storm water will not cause or contribute to non-attainment of a water quality standard. In cases where the Permit Board becomes aware of potential impairment due to small construction activities, the Permit Board may require the submittal of the SWPPP in order to ascertain whether the selected BMPs are sufficient to comply with requirements of this permit or any other requirements of the Permit Board. The list of impaired receiving waters may be found on the MDEQ web site at www.deq.state.ms.us or by calling 601-961-5171.

H. **Requiring an Individual Permit**

Upon notification of a small construction project, the Permit Board may require an alternate permit. The Permit Board may require any owner or operator of land disturbing activities of equal to or greater than one (1) acre and less than five (5) acres to apply for and obtain an individual NPDES permit. Any interested person may petition the Permit Board to take action under this paragraph. The Permit Board may require any small construction owner or operator to apply for an individual NPDES permit only if the owner or operator has been notified in writing. This notice shall include reasons for this decision, an application form and a filing deadline. The Permit Board may grant additional time upon request.

Part II. Small Construction Notice of Intent (SCNOI)

- A. **Small Construction Notice of Intent (SCNOI).** Prior to the commencement of small construction activity, the owner or operator must complete a Small Construction Notice of Intent (SCNOI). The SCNOI and SWPPP described in Part III shall be submitted to the Mississippi Department of Environmental Quality (MDEQ) **only upon request from MDEQ**; however, the SCNOI and SWPPP must be maintained at the permitted site or locally available in case inspector review is necessary. Failure to complete a SCNOI prior to the commencement of construction activity or to submit a SCNOI when requested is a violation of State regulations. The SCNOI shall be retained by the owner or operator as required by Part IV. E. of this permit. Attachments to the SCNOI must include: a U.S. Geological Survey quadrangle map or copy (**only if required to be submitted to MDEQ**) showing site location and a Storm Water Pollution Prevention Plan (SWPPP).

- B. Where to Submit the Small Construction Notice of Intent, if Requested.** Complete and appropriately signed SCNOI forms must be submitted to:

**Chief, Environmental Permits Division
MS Dept of Environmental Quality, Office of Pollution Control
P.O. Box 10385
Jackson, Mississippi 39289-0385**

Part III. Storm Water Pollution Prevention Plan (SWPPP)

- A. SWPPP Development.** A SWPPP shall be developed and implemented by the owner or operator of a small construction project. The SWPPP must include a description of appropriate control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges.

1. The SWPPP shall be retained at the permitted site or locally available. A copy of the SWPPP must be made available to the MDEQ inspectors for review at the time of an on-site inspection.
2. BMPs shall be in place upon commencement of construction.
3. The Executive Director of MDEQ may notify the owner or operator at any time that the SWPPP does not meet the minimum requirements of this permit. After notification, the owner or operator shall amend the SWPPP, implement the changes and certify in writing to the Executive Director that the requested changes have been made. Unless otherwise provided by the Executive Director, the requested changes shall be made within 15 days.
4. The owner or operator shall amend the SWPPP and implement the changes before there is a change in construction, operation, or maintenance, which may potentially effect the discharge of pollutants to State waters.
5. The owner or operator shall amend the SWPPP and implement the changes if the SWPPP proves to be ineffective in controlling storm water pollutants including, but not limited to, significant sediment leaving the site and non-functioning BMPs.

B. Compliance with Local Storm Water Ordinances.

1. In addition to the requirements of this permit, the SWPPP shall be in compliance with all local storm water ordinances and shall provide a brief description of applicable local erosion and sediment controls and post-construction BMPs.
2. When storm water discharges into a municipal storm sewer system, the owner or operator must make the SWPPP available to the municipal authority upon request.

C. SWPPP Details.

1. **Owner or Operator.** The SWPPP shall identify the "owner or operator" as defined in Part VII. of this permit. The operator's name, complete mailing address and telephone number(s) shall be identified on the plan.
2. **Erosion and Sediment Controls.** The owner or operator shall list and describe controls appropriate for the construction activities and the procedures for implementing such controls. Controls shall be designed to retain sediment onsite and should:
 - Divert upslope water around disturbed areas
 - Limit exposure of disturbed areas to the shortest time possible
 - Disturb the smallest area possible
 - Preserve existing vegetation where possible, especially trees
 - Preserve vegetated buffer zones around any creek, drain, lake, pond or wetland
 - Slow rainfall runoff velocities to prevent erosive flows

- Avoid disturbing sensitive areas such as:
 - Steep and/or unstable slopes
 - Land upslope of surface waters
 - Areas with erodible soils
 - Existing drainage channels
- Transport runoff down steep slopes through lined channels or piping
- Minimize the amount of cut and fill
- Re-vegetate disturbed areas as soon as possible
- Implement best management practices to mitigate adverse impacts from storm water runoff; and
- Remove sediment from storm water before it leaves the site by allowing runoff to pond in controlled areas to drop out sediment
- Filter runoff by using natural vegetation, brush barriers, silt fences, hay bales, etc.

At a minimum, the controls must be in accordance with the standards set forth in "Planning and Design Manual for the Control of Erosion, Sediment & Stormwater," or other recognized manual of design as appropriate for Mississippi. The planning and design manual can be obtained by calling 601/961-5171 or may be found electronically at Mississippi State's educational web site at <http://abe.msstate.edu/csd/p-dm/>. In addition, Mississippi's "Storm Water Pollution Prevention Plan (SWPPP) Guidance Manual for Construction Activities" is available by calling 601/961-5171 or on the MDEQ website at www.deq.state.ms.us. The erosion and sediment controls shall address the following minimum components.

- a. **Vegetative practices** shall be designed to preserve existing vegetation where possible and re-vegetate disturbed areas as soon as practicable after grading or construction. Such practices may include surface roughening, temporary seeding, permanent seeding, mulching, sod stabilization, vegetative buffer strips, and protection of trees.
 - b. **Structural practices** shall divert flows from exposed soils, store flows or otherwise limit runoff from exposed areas. Such practices may include construction entrance/exit, straw bale dikes, silt fences, earth dikes, brush barriers, drainage swales, check dams, subsurface drains, pipe slope drains, level spreaders, drain inlet protection, outlet protection, detention/retention basins, sediment traps, temporary sediment basins or equivalent sediment controls.
 - c. **Post construction control measures** shall be installed to control pollutants in storm water after construction is complete. These controls include, but are not limited to on-site infiltration of runoff, flow attenuation using open vegetated swales, exfiltration trenches and natural depressions, constructed wetlands and retention/detention structures. Where needed, velocity dissipation devices shall be placed at detention or retention pond outfalls and along the outfall channel to provide a non-erosive flow.
3. **Non-Storm Water Discharges.** Except for flows from fire fighting activities, sources of non-storm water listed in Part I. E. of this permit that are combined with storm water discharges associated with construction activity must be identified in the SWPPP. The SWPPP must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.
 4. **Housekeeping Practices.** The owner or operator shall describe and list practices appropriate to prevent pollutants from entering storm water from construction sites due to poor housekeeping. The owner or operator shall:
 - designate areas for equipment maintenance and repair and concrete chute wash off;
 - provide waste receptacles at convenient locations;
 - provide regular collection of waste;
 - provide protected storage areas for chemicals, paints, solvents, fertilizers, and other potentially toxic materials;
 - provide adequately maintained sanitary facilities; and
 - provide secondary containment around on-site fuel tanks.

Releases into the environment of hazardous substances, oil, and pollutants or contaminants, which pose a threat to applicable water quality standards or causes a film, sheen or discoloration of State waters, shall be reported to the:

- Mississippi Emergency Management Agency (601) 352-9100
- National Response Center 1-800-424-8802

5. **Prepare Scaled Site Map.** The owner or operator shall prepare a scaled site map showing total area of the site, original and proposed contours (if practicable), direction of flow of storm water runoff, adjacent receiving water bodies, north arrow, all erosion & sediment controls (vegetative and structural), post construction control measures as described in Part III. C. 2. of this permit, and an estimate of the pre and post construction runoff coefficients of the site (see runoff coefficients in Part VII.) and the increase in impervious area.
6. **Implementation Sequence.** The owner or operator shall prepare an orderly listing which coordinates the timing of all major land-disturbing activities together with the necessary erosion and sedimentation control measures planned for the project.

Part IV. Limitations and Requirements

A. Non-Numeric Limitations.

Storm water discharges shall be free from:

1. debris, oil, scum, and other floating materials other than in trace amounts
2. eroded soils and other materials that will settle to form objectionable deposits in receiving waters
3. suspended solids, turbidity and color at levels inconsistent with the receiving waters
4. chemicals in concentrations that would cause violation of State Water Quality Criteria in the receiving waters

B. Implementation Requirements.

The owner or operator shall:

1. implement the SWPPP as required;
2. install downslope and perimeter controls before any major land disturbing activities;
3. install needed erosion controls even if they may be located in the way of subsequent activities, such as utility installation, grading or construction. It shall not be an acceptable defense that controls were not installed because subsequent activities would require their replacement or cause their destruction;
4. implement controls as needed to prevent erosion and adverse impacts to receiving streams and shall install additional and/or alternative erosion and sediment controls when existing controls prove to be ineffective in preventing sediment from leaving the site;
5. maintain all erosion and sediment controls. As a minimum accumulated sediment shall be removed from controls when it reaches 1/3 to 1/2 the height of the control and properly disposed. Non-functioning controls shall be repaired, replaced or supplemented with functional controls within 24 hours of discovery or as soon as field conditions allow;
6. implement the appropriate temporary or permanent vegetative practices within seven calendar days when a disturbed area will be left undisturbed for thirty days or more;
7. minimize off-site vehicle tracking of sediments;

8. remove any off-site accumulations of sediment at a frequency sufficient to minimize offsite impacts (e.g., fugitive sediment in street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets); and
 9. comply with applicable State or local waste disposal, sanitary sewer or septic system regulations.
- C. **Inspection Requirements.** Inspection of all erosion controls and other SWPPP requirements shall be performed during land disturbing activities. Inspections shall be performed:
1. at least once a week;
 2. within 24 hours of the end of a storm event of a half-inch or greater,
 3. as often as is necessary to ensure that appropriate erosion and sediment controls have been properly constructed and maintained and determine if additional or alternative control measures are required.
- D. **Documentation of Inspections.** All inspections required by Part IV. C. of this permit must be documented and certified according to Part V. H. of this permit (see Part IX Inspection Form). Documentation must include the day and time the inspection was performed, who performed the inspection, any deficiencies noted, and corrective action needed. Documentation of all inspections must be kept with the SWPPP. Inspections must continue until such time that planned construction activities have been completed, land disturbing activities have ceased and disturbed areas have been stabilized with no significant erosion occurring.
- E. **Retention of Records.** All records, reports and information resulting from activities required by this permit shall be retained by the owner or operator, on-site if practicable, for a period of at least three years from the date construction was completed.
- F. **Noncompliance Reporting.**
1. **Anticipated Noncompliance.** The owner or operator shall give at least 10 days advance notice, if possible, before any planned noncompliance with permit requirements. Giving notice of planned or anticipated noncompliance does not immunize the owner or operator from enforcement for that noncompliance.
 2. **Unanticipated Noncompliance.** The owner or operator shall notify the MDEQ orally within 24 hours from the time he or she becomes aware of unanticipated noncompliance. A written report shall be provided to the MDEQ within 5 working days of the time he or she becomes aware of the circumstances. The report shall describe the cause, the exact dates and times, steps taken or planned to reduce, eliminate, or prevent reoccurrence and, if the noncompliance has not ceased, the anticipated time for correction.
- G. **Termination of Permit Requirements.**
1. **If a SCNOI has not been requested by the Permit Board (SCNOI not submitted to MDEQ).** Upon successful completion of all permanent erosion and sediment controls, inspections and reporting requirements are no longer required. The owner or operator must record the date of completion of all permanent erosion and sediment controls on the final inspection report.
 2. **If a SCNOI has been requested by the Permit Board (SCNOI submitted to MDEQ).** Upon successful completion of all permanent erosion and sediment controls for a small construction project a written notification of such shall be submitted to the MDEQ. All inspection forms described in Part IV. D. of this permit and provided in Part IX of this permit must be attached. Coverage is not terminated until done so in writing by the MDEQ.

Part V. Other Permit Conditions

- A. **Duty to Comply.** Any permit noncompliance constitutes a violation of the Mississippi Air and Water Pollution Control Law and is grounds for enforcement action or requiring permit application in accordance with Part I. H. of this permit. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the regulated activity in order to maintain compliance with the conditions of this permit.

- B. Continuation of the Expired General Permit and Coverages under the Permit.** All general permits and coverages shall remain in full force and effect until the Permit Board makes a final determination regarding any reissuance, modification, or revocation.
- C. Duty to Mitigate.** The owner or operator shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which is likely to adversely affect human health or the environment.
- D. Duty to Provide Information.** The owner or operator shall furnish to the Permit Board, within a reasonable time, any information that the Permit Board may request to determine compliance with this permit.
- E. Signatory Requirements.** All SCNOIs shall be signed as follows:
1. **For a corporation by a responsible corporate officer.** For this permit, a responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (b) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 2. **For a partnership or sole proprietorship by a general partner or the proprietor, respectively; or**
 3. **For a municipal, State, Federal, or other public agency by either a principal executive officer or ranking elected official.** For purposes of this section, a principal executive officer of a Federal agency includes: (a) the chief executive officer of the agency, or (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- F. Duly Authorized Representative.** All reports required by this permit and other information requested by the Permit Board shall be signed by a person described in Part V. E., above, or by a duly authorized representative of that person. A person is duly authorized representative when:
1. the authorization is made in writing by a person described in Part V. E., above, and submitted to the Permit Board, if requested;
 2. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated activity, such as manager, owner or operator, superintendent or one having overall environmental responsibility (a duly authorized representative may be a named individual or any individual occupying a named position).
- G. Changes to Authorization.** If an authorization is no longer accurate because a different individual or position has permit responsibility, a new authorization satisfying the above requirements must be submitted to the Permit Board prior to or together with any reports, information or applications signed by the representative.
- H. Certification.** Any person signing documents under this section shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
- I. Oil and Hazardous Substance Liability.** Nothing in this permit shall relieve the owner or operator from responsibilities, liabilities, or penalties under Section 311 of the Clean Water Act (CWA).
- J. Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

- K. Transfers.** Coverage under this permit is transferable after the former coverage recipient and new coverage recipient complete Form VIII. This form must be kept with your records. Submit to MDEQ only if an SCNOI has been submitted.
- L. Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- M. Proper Operation and Maintenance.** The owner or operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner or operator to achieve compliance with the conditions of this permit including the storm water pollution prevention plan. Proper operation and maintenance includes adequate laboratory controls with appropriate quality assurance procedures and requires the operation of backup or auxiliary facilities when necessary to achieve compliance with permit conditions.
- N. Bypass Prohibition.** Bypass (see 40 CFR 122.41(m)) is prohibited and enforcement action may be taken against a owner or owner or operator for a bypass, unless: (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the owner or operator should, in the exercise of reasonable engineering judgement, have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and (c) The owner or operator submitted notices per Part IV. G. of this permit.
- O. Upset Conditions.** An upset (see 40 CFR 122.41(n)) constitutes an affirmative defense to an action brought for noncompliance with technology-based permit limitations if a permittee shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that: (1) An upset occurred and the permittee can identify the specific cause(s) of the upset, (2) The permitted facility was at the time being properly operated, (3) The permittee submitted notices per Part IV. G. 2. of this permit, and (4) The permittee took remedial measures as required under Part V. C. of this permit. In any enforcement proceeding, the permittee has the burden of proof that an upset occurred. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- P. Inspection and Entry.** The owner or operator shall allow the MDEQ staff or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to;
1. enter upon the premises where a regulated activity is located or conducted or where records must be kept under the conditions of this permit;
 2. have access to and copy at reasonable times any records that must be kept under the conditions of this permit; and
 3. inspect at reasonable times any facilities, equipment or project site.
- Q. Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. A request by the owner or operator for permit modification, revocation and reissuance, or termination, or a certification of planned changes or anticipated noncompliance does not stay any permit condition.

Part VI. Reopener Clause

- A. Requirement to Obtain Individual Permit.** If there is evidence indicating potential or realized impacts on water quality due to storm water discharge covered by this permit, the owner or operator may be required to obtain individual permit in accordance with Part I. H. of this permit.
- B. Permit Modification.** Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

Part VII. Definitions

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Control Measure as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

Commencement of Construction Activities means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities.

Commission means the Mississippi Commission on Environmental Quality.

Clean Water Act "CWA" refers to the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

Discharge of Storm Water Associated with Small Construction Activity as used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete) are located.

Executive Director means the Executive Director of the Department of Environmental Quality.

Facility or Activity means any NPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

Large Construction Activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five (5) acres of land or will disturb less than five (5) acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five (5) acres. Large construction activity is covered by another general permit.

Larger Common Plan of Development or Sale means a contiguous area where multiple separate and distinct construction activities are occurring under one plan. The plan in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that construction activities may occur on a specific plot.

Operator for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of MDEQ's interpretation of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of storm water associated with construction activity.

Owner or operator means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

Permit Board means the Mississippi Environmental Quality Permit Board established pursuant to Miss. Code Ann. § 49-17-28.

Pollutant is defined at 40 CFR 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, sediment, silt, cellar dirt, and industrial or municipal waste.

Runoff Coefficient means the fraction of total rainfall that will appear at the conveyance as runoff (see values below).

Successful Completion of all permanent erosion and sediment controls means when land disturbing construction activities have been completed and disturbed areas have been stabilized with no significant erosion occurring.

Small Construction Activity is defined at 40 CFR 122.26(b)(15) and incorporated here by reference. A small construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than one (1) acre and less than five (5) acres of land or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Storm Water means rainfall runoff, snowmelt runoff, and surface runoff.

Storm Water Pollution Prevention Plan "SWPPP" means a plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the storm water, and a description of measures or practices to control these pollutants.

Values of Runoff Coefficient C:

Lawns:

- Sandy soil, flat 2% 0.05-0.10
- Sandy soil, average, 2-7% 0.10-0.15
- Sandy soil, steep, 7% 0.15-0.20
- Heavy soil, flat, 2% 0.13-0.17
- Heavy soil, average, 2-7% 0.18-0.22
- Heavy soil, steep, 7% 0.25-0.35

Business:

- Downtown areas 0.70-0.95
- Neighborhood areas 0.50-0.70

Residential:

- Single family areas 0.30-0.50
- Multi units, detached 0.40-0.60
- Multi units, attached 0.60-0.75

Residential:

- Suburban 0.25-0.40
- Apartment dwelling areas 0.50-0.70

Industrial:

- Light areas 0.50-0.80
- Heavy areas 0.60-0.90

Parks, cemeteries 0.10-0.25

Playgrounds 0.20-0.35

Railroad yard areas 0.20-0.40

Unimproved areas 0.10-0.30

Streets:

- Asphalt 0.70-0.95
- Concrete 0.80-0.95
- Brick 0.70-0.85
- Drives and walks 0.75-0.85
- Roofs 0.75-0.95

Part VIII.

Transfer of Small Construction General Permit Coverage
and/or Name Change

Instructions: For Ownership Change-Complete all Items on this page (except Item VIII) and reverse side.
For Name Change Only-Complete Items I, II, V, VI, VII, VIII, and reverse side.

Item I. Facility Name: _____ Location: (Do Not Use P.O. Box) Street: _____ City: _____ State: <u>MS</u> Zip: _____ County: _____ Telephone: (____) _____	Item II. Responsible official after transfer or name change: Name: _____ Title: _____ Mailing Address: Street/P.O. Box: _____ City: _____ State: _____ Zip: _____ Telephone (____) _____
Item III. Previous Permittee¹: _____ Mailing Address: Street/P.O. Box: _____ City: _____ State: _____ Zip: _____ Telephone: (____) _____	Item IV. New Permittee¹: _____ Mailing Address: Street/P.O. Box: _____ City: _____ State: _____ Zip: _____ Telephone: (____) _____
Item V. Industrial Activity SIC Code: _____ Brief Description: _____	Item VI. Will Facility Operations Change? Yes ☐ No ☐ If yes, the appropriate applications and permits may required modification prior to change.
Item VII. Will Facility Name Change? Yes ☐ No ☐ If Yes, Provide New Name for Permit Coverage. New Name: _____	Item VIII. Signature for Name Change Print Name: _____ Authorized Signature²: _____ Title: _____ Date: _____
Item IX. We the undersigned transfer permit coverage MSR15 _____ (complete if known) From: _____ To: _____ Acquisition Date: _____	
By signature below, the new permittee certifies that they are aware of the requirements of the Small Construction General Permit and agrees to accept responsibility and liability for permit compliance. The previous permittee by signature below is transferring permit coverage to the new permittee.	
_____ Print New Permittee¹ Name _____ New Authorized Signature² _____ Title Date	_____ Print Previous Permittee¹ Name _____ Previous Authorized Signature² _____ Title Date
¹A Permittee is a company or individual that is covered under the general permit. ²Authorized Signature must be owner or operator.	
Page 1 of 2 January 2003	

Item X. Storm Water

(Check One)

- ☐ The recipient certifies that they have received a copy of the SWPPP from the original owner.
- ☐ The recipient is developing a new SWPPP.

If other environmental permits are involved please contact MDEQ at 601/961-5171 for the appropriate MDEQ transfer form or see MDEQ's web site at www.deq.state.ms.us

Submit to MDEQ only if an SCNOI has been submitted. If not submitted, you must keep this form with your records.

Part IX.

INSPECTION AND CERTIFICATION FORM FOR
SMALL CONSTRUCTION EROSION AND SEDIMENT CONTROLS

This form shall be kept on-site unless required to be submitted to MDEQ (see Part IV. G.)
Inspections must be done weekly and after a half-inch rainfall event.
Coverage number if SCOI submitted (MSR15 _____)

(Please Print)

Name:

Project Name:

Project Street Address:

Project City and County:

Startup Date:

Mailing Address:

Mailing City/State/Zip

Telephone Number

Inspection Log

Date and Time	After a Half-Inch Rain?	Any Deficiencies Observed?	Inspector(s)
	Yes or No	Yes or No	
	Yes or No	Yes or No	
	Yes or No	Yes or No	
	Yes or No	Yes or No	
	Yes or No	Yes or No	

Deficiencies Noted During any Inspection (give date(s); attach additional sheets if necessary):

Corrective Action Taken or Planned (give date(s)); (attach additional sheets if necessary):

Based upon this inspection which I or personnel under my direct supervision conducted, I certify that all erosion and sediment controls have been implemented and maintained, except for those deficiencies noted above, in accordance with the Storm Water Pollution Prevention Plan filed with the Office of Pollution Control and sound engineering practices as required by the above referenced permit.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Authorized Name (Print)

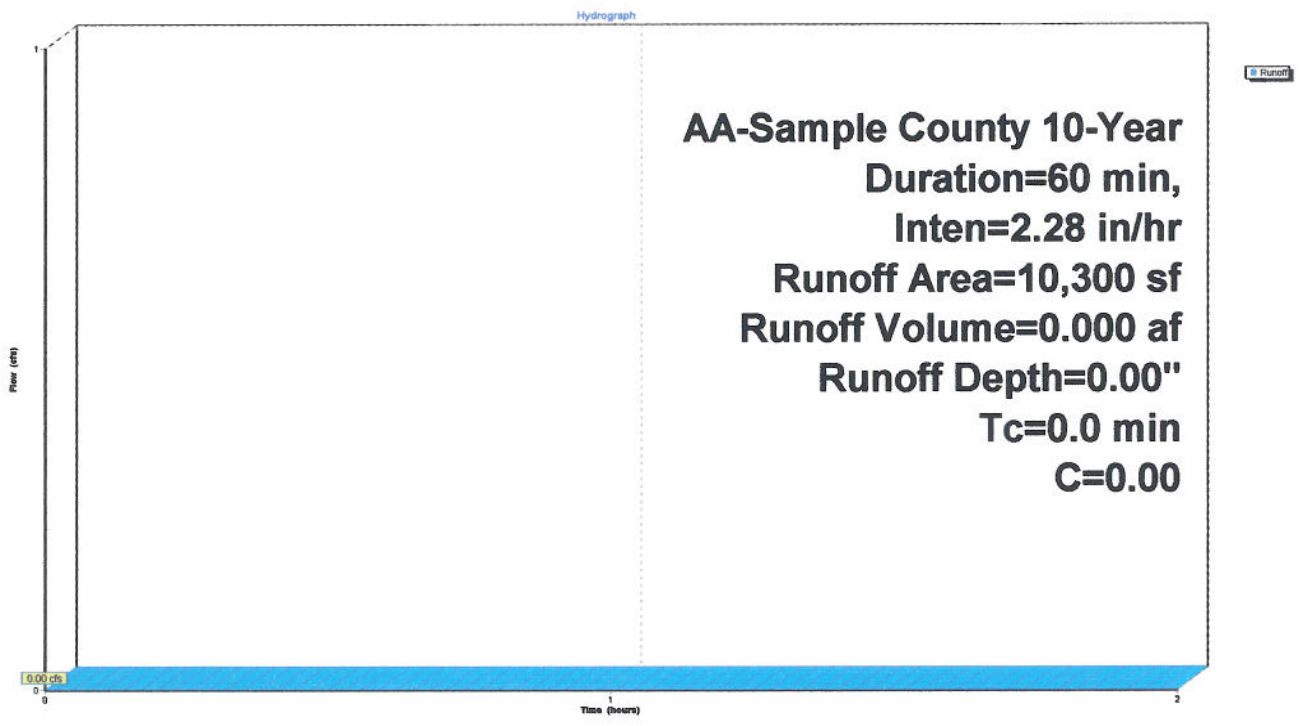
Signature

Date

Note: This page is intentionally blank

This report was prepared with the free HydroCAD SAMPLER, which is licensed for evaluation and educational use only. For actual design or modeling applications you must use a full version of HydroCAD which may be purchased at www.hydrocad.net. Full programs also include complete printed documentation, technical support, training materials, and additional features which are essential for actual design work.

Subcatchment 1s: Parking Area



Part X.



SMALL CONSTRUCTION NOTICE OF INTENT (SCNOI)

GENERAL NPDES PERMIT MSR15 _____ (Number to be assigned by MDEQ if submitted)

Prior to the commencement of small construction activity (see Small Construction General Permit Part I. B.), the owner or operator of a small construction project must complete this form and develop a Storm Water Pollution Prevention Plan (SWPPP) as required by Part III of Mississippi's Small Construction General Permit. **This SCNOI and SWPPP shall be submitted to the Mississippi Department of Environmental Quality (MDEQ) only upon request from MDEQ; however, the SCNOI and SWPPP must be maintained at the permitted site or locally available in case inspector review is necessary.** Attachments with this SCNOI must include: a USGS quad map or copy showing site location (only if required to be submitted to MDEQ) and a Storm Water Pollution Prevention Plan (SWPPP). All questions must be answered – answer "NA" if the question is not applicable.

PROJECT INFORMATION

OWNER CONTACT PERSON: OWNER COMPANY NAME: OWNER STREET (P.O. BOX): OWNER CITY: STATE: _____ ZIP: _____ OWNER PHONE # (INCLUDE AREA CODE): 	OPERATOR (if different from owner) CONTACT PERSON: OPERATOR COMPANY: OPERATOR STREET (P.O. BOX): OPERATOR CITY: STATE: _____ ZIP: _____ OPERATOR PHONE # (INCLUDE AREA CODE):
PROJECT NAME: _____ DESCRIPTION OF CONSTRUCTION ACTIVITY: _____ _____ ACREAGE DISTURBED (to be covered by this permit must be less than five (5) acres): _____ PHYSICAL SITE ADDRESS (IF NOT AVAILABLE INDICATE THE NEAREST NAMED ROAD): STREET: _____ CITY: _____ COUNTY: _____ ZIP: _____ NEAREST NAMED RECEIVING STREAM: _____	
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.	
Signature¹ _____	Date Signed _____
Printed Name _____	Title _____

¹This application shall be signed according to the Small Construction General Permit, Part V. E.

If requested, mail to: Chief, Environmental Permits Division; Mississippi Department of Environmental Quality
P.O. Box 10385; Jackson, MS, 39289-0385

From: "Eduardo J Hernandez" <ejhernandez01@hotmail.com>
To: dammon@mailcity.com
CC:
Subject: LQ-Biloxi
Date: Fri, 17 Jun 2005 04:15:08 +0000
Return-Path: <ejhernandez01@hotmail.com>
Delivered-To: dammon:lycos.com@mail.lycos.com
Received: (qmail 21055 invoked by uid 0); 17 Jun 2005 04:15:24 -0000
X-Ob-Received: from unknown (192.168.8.40) by mta7-1.us4.outblaze.com; 17 Jun 2005 04:15:24 -0000
Received: (qmail 11361 invoked by uid 1001); 17 Jun 2005 04:15:24 -0000
X-Ob-Delivered-To: dammon:lycos.com@mail.lycos.com
X-Ob-Received: from unknown (208.36.123.71) by as7-11.us4.outblaze.com; 17 Jun 2005 04:15:24 -0000
X-Ob-Received: from unknown (192.168.8.57) by as7-4e.us4.outblaze.com; 17 Jun 2005 04:15:21 -0000
Received: from hotmail.com (bay103-f15.bay103.hotmail.com [65.54.174.25]) by spf7-3.us4.outblaze.com (Postfix) with ESMTP id 57E58107172 for <dammon@mailcity.com>; Fri, 17 Jun 2005 04:15:20 +0000 (GMT)
Received: from mail pickup service by hotmail.com with Microsoft SMTPSVC; Thu, 16 Jun 2005 21:15:09 -0700
Message-Id: <BAY103-F15055B55E0AEA5C6A673E7A4F40@phx.gbl>
Received: from 65.54.174.200 by by103fd.bay103.hotmail.msn.com with HTTP; Fri, 17 Jun 2005 04:15:08 GMT
X-Originating-Ip: [65.54.174.200]
X-Originating-Email: [ejhernandez01@hotmail.com]
X-Sender: ejhernandez01@hotmail.com
Mime-Version: 1.0
Content-Type: text/html; format=flowed
X-Originalarrivaltime: 17 Jun 2005 04:15:09.0018 (UTC) FILETIME=[260183A0:01C572F3]

Pete I received your proposal, and I'm OK with the fee of 35,607.00 (I know I have to pay top dollars for the best!) and the draw structure seems OK too,however I will like to add :

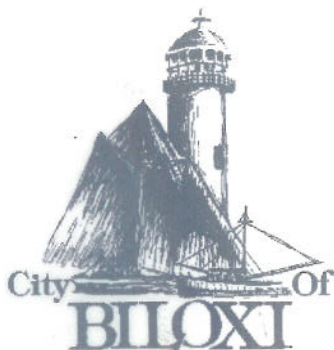
- 1)Final draw of \$10,607. with the approval of city of Biloxi and from La Quinta Architect / Engineering dept.
- 2) Preliminary prints for appraisal purposes within 3 weeks of contract approval. ✓
- 3)Complete set of drawings that will be presented for permits within 60 days of contract approval.
- 4) Site Plan for soil boring and initial permit process (1st./ 3 steps) within 10 days of contract approval.
- 5) one original and 3 copies of complete set of drawings (project bids)

I hope that this will work for you,as you know my big concern is time (money too!!). Call me at my cell 985-788-5298. Thank you.

Eddie 😎

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http://mymail01.mail.lycos.com/scripts/mail/read.mail?print=1&msg_uid=1119003389&f... 6/17/2005



Community Development Department

Planning Division
676 Dr. Martin Luther King Jr. Blvd.
Biloxi, MS 39530-3975
Post Office Box 508
Biloxi, MS 39533-0508

Edward Shambra, Executive Planner
Bobby R. Wentzell, Senior Planner
Robert W. Fell, Planning Inspector
Telephone: 228-435-6266
Facsimile: 228-435-6188

MEMORANDUM

To: Scott Delano, sdelano@gulfstatesproperties.net
From: David A. 'Hank' Rogers, CBO
Chair, Development Review Committee
Date: August 22, 2005
Re: LaQuinta Inn

Development Review is a service provided to assist developers in addressing the land development requirements of the City of Biloxi.

The Development Review Committee (DRC) made the following recommendations and comments concerning the above project:

1. Zoning Issues:
 - a. Submit certified abstract.
 - b. Owner will need to apply for subdivision w/variances.
 - c. Flag shaped lots are prohibited by the LDO, special consideration may be made due to the fact that the drive will be shared by adjacent business.
 - d. The pool deck is in the side yard setback, the deck should be the same distance as the building (25') or a setback variance will be required.
 - e. A variance for the room count will be required. See Section 23-11-14 (e) (2) (b) (1).
 - f. The handicap parking space #61 does not have an accessibility aisle.
 - g. Submit signage plan.
2. Fire Department Issues:
 - a. Minimum of 20ft access drives for fire apparatus.
 - b. Show location of fire department location in front of building.
 - c. Show location of all proposed and existing fire hydrants.
 - d. Water main shall be looped through the property. (no dead end hydrants)
 - e. A secondary egress should be considered for this property if possible.
3. Building Department Issues:
 - a. ADAAG requires truncated domes on the surface of all handicap ramps.
 - b. Upon approval of the site plan by the Committee, the Building Official requires the following be submitted with the building permit application:
 1. Plans in digital format—plot files or .pdf—and specifications in text format for archival purposes.

2. Two (2) sets of construction drawings, wet-stamped and signed by a design professional, registered in the State of MS; along with the stamped and signed site plans attached.

3. A construction schedule for use by the Building Official.

4. After building plans are received with the approved site plans, review will take a minimum of 10-14 days.

4. Arborist Issues:

- a. A Tree Hearing will be required. Submit tree plan depicting which trees will remain and which will be removed.
- b. See Section 23-16-8 of LDO.

5. Engineering Issues:

I will forward Engineering's comments, if any, once I receive them.

6. AHRC Issues:

Not in AHRC district or within 300' of landmark.

Developers may not apply for any public hearings until the DRC has submitted a letter of recommendation to the Planning Department.

These recommendations are not intended to be all-inclusive for final site plan approval. The information is for your use as you continue the development process of your project.

If your site plan was not approved and signed, a revised site plan detailing the Development Review Committee's requirements is warranted.

Please note that if for any reason your project remains inactive for three (3) months, the site plan process shall be revisited, including all new document submittal.

Any questions that you may have concerning specific requirements should be directed to the appropriate Development Review Committee Member(s):

Zoning	Ed Shambra	435-6266
Engineering	Chandra Nicholson	435-6269
Site Plan Review Procedures/Building Department	Hank Rogers	435-6270
Fire Department	Mark Dronet	435-6209
Arborist	Eric Nolan	435-6280
ARHC	Bill Raymond Jr.	435-6244

From: "Dammon Engineering" <dammoneng@bellsouth.net>
To: "Dammon, Pete" <dammon@lycos.com>
CC:
Subject: FW: LaQuinta 082205
Date: Mon, 22 Aug 2005 12:27:20 -0500
Return-Path: <dammoneng@bellsouth.net>
Delivered-To: dammon:lycos.com@mail.lycos.com
Received: (qmail 31464 invoked by uid 0); 22 Aug 2005 17:27:39 -0000
X-Ob-Received: from unknown (192.168.8.41) by mta7-2.us4.outblaze.com; 22 Aug 2005 17:27:39 -0000
Received: (qmail 14877 invoked by uid 1001); 22 Aug 2005 17:27:39 -0000
X-Ob-Delivered-To: dammon:lycos.com@mail.lycos.com
X-Ob-Received: from unknown (208.36.123.71) by as7-2l.us4.outblaze.com; 22 Aug 2005 17:27:39 -0000
X-Ob-Received: from unknown (208.36.123.74) by as7-4e.us4.outblaze.com; 22 Aug 2005 17:27:38 -0000
Received: from imf20aec.mail.bellsouth.net (imf20aec.mail.bellsouth.net [205.152.59.68]) by spf7-14.us4.outblaze.com (Postfix) with ESMTP id E196836F48 for <dammon@lycos.com>; Mon, 22 Aug 2005 17:27:37 +0000 (GMT)
Received: from ibm62aec.bellsouth.net ([65.6.106.207]) by imf20aec.mail.bellsouth.net with ESMTP id <20050822172737.UMAW3116.imf20aec.mail.bellsouth.net@ibm62aec.bellsouth.net> for <dammon@lycos.com>; Mon, 22 Aug 2005 13:27:37 -0400
Received: from david ([65.6.106.207]) by ibm62aec.bellsouth.net with SMTP id <20050822172732.EMYS1144.ibm62aec.bellsouth.net@david> for <dammon@lycos.com>; Mon, 22 Aug 2005 13:27:32 -0400
Reply-To: <dammoneng@bellsouth.net>
Message-Id: <IHEDKOBLFLGCKKFBEOAEEHACDAA.dammoneng@bellsouth.net>
Mime-Version: 1.0
Content-Type: multipart/mixed; boundary="-----_NextPart_000_0057_01C5A714.D71B4400"
X-Priority: 3 (Normal)
X-Msmail-Priority: Normal
X-Mailer: Microsoft Outlook IMO, Build 9.0.6604 (9.0.2911.0)
X-Mimeole: Produced By Microsoft MimeOLE V6.00.2900.2180
Importance: Normal
Disposition-Notification-To: "Dammon Engineering" <dammoneng@bellsouth.net>

Content-Type: text/plain; charset=us-ascii
Content-Transfer-Encoding: 7bit

-----Original Message-----

From: Scott DeLano [mailto:sdelano@gulfstatesproperties.net]
Sent: Monday, August 22, 2005 11:03 AM
To: 'Dammon Engineering'; Eduardo J Hernandez
Subject: FW: LaQuinta 082205

Pete, here are the comments from Biloxi's DRC meeting from last Wednesday. There are a couple of items on here relating to the site plan that I would like your comments on. Please review and call me when you have a second. I will get Robert Schwartz to do the tile abstract

http://mymail01.mail.lycos.com/scripts/mail/read.mail?print=1&msg_uid=1124732052&f... 8/23/2005

HAAS & HAAS
Attorneys At Law
201 North Second Street
Bay Saint Louis, Mississippi 39520

Michael D. Haas (1932-2006)
Michael D. Haas, Jr.
Albert J. Gardner, III*

January 12, 2010

Phone (228) 467-6574
Fax (228) 467-6575
*Also admitted in Louisiana

Dammon Engineering
1095 Florida Avenue
Slidell, LA 70458

RE: B&C Land Services, LLC vs. LANCO Construction, Inc. – LA Quinta
Inn & Suites, Cedar Lake Roa, Biloxi, Mississippi, Owner – Prisma
BX, Limited Liability Company

Dear Sir or Madam:

I represent the interest of B&C Land Services, LLC. B&C Land Services, LLC was a subcontractor to LANCO Construction, Inc. who served as general contractor on the above referenced project. I have enclosed herewith a copy of the Subcontract 6060-2 entered into between LANCO Construction, Inc. and my client. As provided therein, both parties authorized the architect to provide information regarding payment requests made by LANCO Construction, Inc. and this information is needed by us to properly conduct the arbitration of the dispute between the two parties herein. (See contract provision 12.4.2).

I would appreciate it if you could provide me with a copy of the payment schedules and draw requests associated with this project so that I can determine the status of payment of same and the time frames to allow us to compute the interest which is due to my client in the arbitration proceedings. Under the terms of our agreement with LANCO Construction, Inc. they owe interest beginning the seventh day following payment by the owner.

If there is a charge for copying these documents, please provide me with an estimate and I will gladly remit prepayment of the reasonable expenses incurred in copying these documents.

Sincerely,



Michael D. Haas, Jr.

MDH/ttr

cc: Mr. Bert Courrege, Jr.

Pete,

Attached are the pay apps I have for the LaQuinta Inn in Biloxi. I'm missing Nos. 1, 2, & possibly 13 (there seems to have been a numbering error on 11-13).

I'll talk to Chuck when he gets back and see if he can recall anything that may have prevented us from getting the first 2 pay apps.

Cindy

SUBCONTRACT 6060-2

AGREEMENT

Made as of the 20th day of November in the year Two Thousand Six (2006)

BETWEEN:

Contractor:	Lanco Construction, Inc. P.O. Box 653 Metairie, LA 70004 Office: (504) 733-8141 Fax: (504) 818-0020	and the Subcontractor:	B & C Land Services, LLC 7044 Road 134 Bay St. Louis, MS 39520 228-467-0426, Phone 228-806-4499, Cell
The Project:	La Quinta Inn & Suites Cedar Lake Road Biloxi, MS	the Architect:	Dammon Engineering, GC 1095 Florida Avenue Slidell, LA 70458
The Owner:	Prisma Bx, Limited Liability Company 1430 Lindburg Drive Slidell, LA 70458		

The Contractor and Subcontractor agree as set forth below:

ARTICLE 1. THE CONTRACT DOCUMENTS

1.1 The Contract Documents for this Subcontract consist of this Agreement and any Exhibits attached hereto, the Agreement between the Owner and Contractor dated as of June 20, 2006, the Conditions of the Contract between the Owner and Contractor (General, Supplementary and other Conditions), the Drawings, the Specifications, all Addenda issued prior to and all Modifications issued after execution of the Agreement between the Owner and Contractor and agreed upon by the parties to this Subcontract.

1.2 Copies of the above documents which are applicable to Work under this Subcontract shall be furnished to the Subcontractor upon his request. An enumeration of the applicable Contractor Documents appears in Article 15.

1.3 Any work sublet by this subcontractor will include all Articles of this Subcontract.

ARTICLE 2. THE WORK

2.1 The Subcontractor shall perform all the Work required by the Contract Documents for installation of water and sewer lines including drainage phases of work per plans and specifications as well in accordance with all state local codes and restrictions. All work shall be in compliance with all governing laws of the locality where the project is located.

ARTICLE 3. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The Work to be performed under this Subcontract shall be commenced November 20, 2006 and, subject to authorized adjustments, shall be substantially completed not later than December 31, 2006.

* Contractor's construction schedule must be strictly adhered to.

3.2 Time is of essence of the Subcontract.

3.3 No extension of time will be valid without the Contractors' written consent after claim made by the Subcontractor in accordance with paragraph 11.10.

3.4 The Project schedule must be strictly adhered to. Failure to provide sufficient labor and/or material as required and when requested is just cause for removal and/or supplement by Lanco Construction, Inc.

ARTICLE 4. THE CONTRACT SUM

4.1 The Contractor shall pay the Subcontractor in current funds for the performance of the Work, subject to additions and deductions authorized pursuant to Paragraph 11.9, the Contract Sum of [Breakdown - installation of water and sewer lines = \$28,000.00; and drainage = \$72,006.00]. Total Subcontract amount is ONE HUNDRED THOUSAND SIX DOLLARS (\$ 100,006.00). This Subcontract sum is lump sum.

ARTICLE 5. PROGRESS PAYMENTS

5.1 The Contractor shall pay the Subcontractor monthly progress payments in accordance with Paragraph 12.4 of this Subcontract.

5.2 Applications for monthly progress payments shall be submitted to the Contractor on or before the 20th day of each month.

5.3 PRICE. Contractor shall pay to Subcontractor for the satisfactory performance and completion of the Work and performance of all duties, obligations and responsibilities of Subcontractor under the Subcontract, the sum set forth above as the Price, subject only to additions and deductions as expressly provided in this Subcontract. To the extent that the Work is to be performed on a unit price basis, the Price shall be computed in accordance with the unit prices set forth shall be deemed to include all costs of Subcontractor's performance of the work as set forth in the Contract Document, including, but not limited to, the cost of labor, supervision, services, materials, equipment, tools, scaffolds, hoisting, transportation, storage, insurance and taxes, and all overhead profit.

5.4 PROGRESS PAYMENTS. Within ten (10) days after date of transmission of this Subcontract to the Subcontractor, Subcontractor shall submit to the contractor for the Contractor's approval a detailed schedule showing a proper cost breakdown (with a proper share of associated overhead and profit) of the Price according to the various line items, or parts of the Work, for the use only as for verifying Subcontractor's applications for payment or supporting Contractor's applications for payments under the Contract.

5.5 On or before each Monthly Billing Date, Subcontractor shall submit to the Contractor, in such form, and support by such date as Contractor may require a progress payment application (Lanco Construction, Inc.) "Subcontractor's Application for Payment," showing the value of the Work installed ("Complete Work"), plus the value of material and equipment for incorporation in the Work suitably stored (to the satisfied of Contractor and Architect) at the Project site or other approved location ("Stored Work") if, and only if the Contract Documents provide for payments to the Contractor on that Basis, as of such date.

5.6 Within seven (7) days after receiving a progress payment from Owner under the Contract, Contractor shall make a progress payment to Subcontractor equal to the value of the Complete Work and Stored Work as of the Corresponding Monthly Billing Date, to the extent approved by Contractor and allowed and paid by Owner on account of the Work and Stored Work, and after deducting (a) all previous payments, (b) current retainage (meaning a reserve equal to the Retainage Percentage), equipment, or other items furnished or otherwise chargeable to Subcontractor. Lanco Construction is not the entity financing the project and the Subcontractor expressly agrees that all payments are contingent upon payments from Owner.

5.7 Subcontractor shall not be entitled to any payment until this Subcontract has been properly executed and all documents and information to be furnished by Subcontractor have been supplied to Contractor.

5.8 Progress payments of final payments due and unpaid under this Subcontract shall bear interest from the date payment is due at the rate entered below or, in the absence thereof, at the legal rate prevailing at the place of the Project.

5.9 If Lanco Construction, Inc has retainage withheld by owner (normally 10%); the same percent retainage will be withheld from subcontractor invoices. Payment of retainage will be per Article 6.

ARTICLE 6. FINAL PAYMENT

6.1 Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be due when the Work Described in the Subcontract is fully completed and performed in accordance with the Contract Documents and is Satisfactory to the Architect, and shall be payable as follows, in accordance with Article 5 and with Paragraph 12.4 of this Subcontract:

A signed notarized lien waiver must be provided in order to receive final payment.

6.2 Before issuance of the final payment, the Subcontractor, if required, shall submit evidence satisfactory to the Contractor that all payrolls, bills for materials and equipment, and all known indebtedness connected with Subcontractor's Work have been satisfied.

6.3 Contractor reserves the right to withhold, as an additional reserve and without limiting its other rights and remedies, and amount sufficient (a) to defend, satisfy and discharge any asserted claim that Subcontractor (or anyone providing any of the Work hereunder) has failed to make payment for labor, services, materials, equipment, taxes, or other obligations furnished or incurred in connection with the Work or has caused damage to the Work or to any other Work on the Project; (b) to complete the Work or it appears that funds remaining in the Subcontract, including retainage and exclusive of back charges, are insufficient to complete the Work; (c) reimburse Contractor for any back charges incurred as a result of any act or omission by Subcontractor hereunder; (d) to protect Contractor from the possible consequences of any other breach of default by Subcontractor hereunder, or (e) to secure Contractor with respect to any breach or default by Subcontractor or its affiliates parent company and subsidiaries under any other agreement.

6.4 Payment hereunder shall not be evidence of the proper performance or progress of the Work and no payment shall be construed to be acceptance of defective, faulty or improper work or materials.

ARTICLE 7. PERFORMANCE BOND AND LABOR MATERIAL PAYMENT BOND

Not required unless specifically requested

ARTICLE 8. TEMPORARY FACILITIES AND SERVICES

8.1 Unless otherwise provided in this Subcontract, the Contractor shall furnish and make available at no cost to the Subcontractor the following temporary facilities and services: Temporary Toilets

ARTICLE 9. INSURANCE

9.1 Prior to starting work, the subcontractor shall obtain the required insurance from a responsible insurer, and shall furnish satisfactory evidence to the Contractor that the Subcontractor has complied with the requirements of this Article 9. Subcontractor shall maintain General Liability, Worker's Compensation and Automobile Liability coverage with limits of \$1,000,000. Louis J. Lanza, III must be named as Additional Insured on a primary non-contributory basis on the Subcontractor's General Liability policy. Similarly, the Contractor shall furnish to the Subcontractor satisfactory evidence of insurance required of the Contractor by the Contract Documents.

9.2 The Contractor and Subcontractor waive all rights against each and against the Owner, Architect, separate contractors and all other subcontractors for damages caused by fire other perils to the extent covered by property insurance provided under General Conditions, except such rights as they may to the proceeds of such insurance.

9.3 Should the Subcontractor not have insurance at the commencement time of the project, and throughout the project, Contractor will deduct the cost of insurance coverage for the subcontractor from the subcontractor's original contract amount. A minimum withholding of twenty-five (25%) percent for Workers' Compensation and General Liability will be withheld if no evidence of insurance is furnished.

9.4 For the purposes of this Agreement, and pursuant to the provisions of Louisiana Revised Statutes 23-1061 (A). Contractors and subcontractor jointly agree, stipulate and recognize that Contractor shall be the statutory employer of any and all of Subcontractor's employees and/or all employees of any subcontractors hired or retained in any manner by Subcontractor and/or other person for whom subcontractor may be held responsible, while any of the above described persons are performing any work or providing services under this Agreement. Contractor and Subcontractor further stipulate, agree and recognize that all work performed under the agreement between Contractor and Subcontractor shall be considered part of Contractor's trade, business or occupation and shall be specifically considered an integral part of or essential to the ability of the Contractor to generate its services. Contractor and Subcontractor further stipulate, agree and recognize that the services or work provided by an employee of Subcontractor or other person retained by Subcontractor for the performance of any work or service under this Agreement shall be contemplated by and included in this provision and shall be deemed to be part performing work or providing services which is an integral part of and essential to the ability of the Contractor to generate its services.

ARTICLE 10. WORKING CONDITIONS

10.1 SAFETY. Subcontractor agrees that prevention of accidents to workers engaged upon or in the vicinity of the Work is its responsibility, even if Contractor establishes a safety program for the entire Project. Subcontractor shall establish and implement safety measures, policies, and standards conforming to those required or recommended by government or quasi-government authorities having jurisdiction and by Contractor and Owner, including, but not limited to, requirements imposed by the Contract Documents. Subcontractor shall comply with reasonable recommendations of insurance companies having an interest in the project and shall stop any part of the work which Contractor deems unsafe until corrective measures satisfactory to the contractor have been taken. Contractor's failure to stop Subcontractor's unsafe practices shall not relieve Subcontractor of its responsibility therefor. Contractor will not be responsible for any acts of Subcontractor that are ruled unsafe by any governing body. Subcontractor agrees to indemnify Contractor for all actions of Subcontractor.

ARTICLE 11. SUBCONTRACTOR

11.1 RIGHTS AND RESPONSIBILITIES

11.1.1 The Subcontractor shall be bound to the Contractor by the terms of this Agreement and to the extent that provisions of the Contract Documents between the Owner and Contractor apply to the Work of the Subcontractor as defined in this Agreement, the Subcontractor shall assume toward the Contractor all the obligations and responsibilities which the Contractor, by those Documents, assumes towards the Owner and the Architect, and shall have the benefit of all rights, remedies and redress against the Contractor which the Contractor, by those Documents has against the Owner, insofar as applicable to this Subcontractor, provided that where any provision of the Contract Documents between the Owner and Contractor is inconsistent with any provision of this Agreement, this Agreement shall govern.

11.1.2 The Subcontractor shall not assign this subcontract without the written consent of the Contractor, nor subcontract the whole of this Subcontract without the written consent of the Contractor, nor further subcontract portion of this Subcontract without written notification to the Contractor when such notification is requested by the Contractor. The Subcontractor shall not assign many amounts due or to become due under this Subcontract without written notice to the Contractor.

11.2.1 The Subcontractor agrees that the Contractor's equipment will be available to the Subcontractor only at the Contractor's discretion and on mutually satisfactory terms.

11.2.2 The Subcontractor shall cooperate with the Contractor in scheduling and performing his Work to avoid conflict or interface with the work of others.

11.2.3 The Subcontractor shall promptly submit shop drawings and samples required in order to perform his Work efficiently and in a manner that will not cause delay in the process of Work of the Contractor or other subcontractors. The Contractor expects these items in hand within fifteen (15) days of execution of this Subcontract.

11.2.4 The Subcontractor shall furnish periodic progress reports on the Work as mutually agreed, including information on the status of material and equipment under this Subcontract which may be in the course of preparation or manufacture.

11.2.5 The Subcontractor agrees that all Work shall be done subject to the final approval of the Architect. The Architect's and Lanco decision in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents.

11.2.6 The Subcontractor shall pay for all materials, equipment and labor used in, or in connection with, the performance of this Subcontract through the period covered by progress payments received from the Contractor, and shall furnish satisfactory evidence, when requested by the Contractor, to verify compliance with the above requirements.

11.3 LAWS, PERMITS, FEES, AND NOTICES

11.3.1 The Subcontractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performances of the Work under this Subcontract. The Subcontractor shall secure and pay for all permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Subcontractor's Work, the furnishing of which is required of the Contractor by the Contract Documents.

11.3.2 The Subcontractor shall comply with Federal, State and local tax laws, social security acts, unemployment compensation acts and workers' or workmen's compensation acts and environmental protection agency laws insofar as applicable to the performance of this Subcontract.

11.3.3 The Subcontractor shall comply with any landlord, mall and/or shopping center's requirements

11.4 WORKS OF OTHERS

11.4.1 In carrying out his Work, the Subcontractor shall take necessary precautions to protect properly the finished work of other trades from damage caused by his operations.

11.4.2 The Subcontractor shall cooperate with the Contractor and other subcontractors whose work might interface the Subcontractor's Work, and shall participate in the preparation of coordinated drawings in areas of congestion as required by the Contract Documents, specifically noting and advising the Contractor of any such interference.

11.5 SAFETY PRECAUTIONS AND PROCEDURES

11.5.1 The Subcontractor shall take all reasonable safety precautions with respect to his Work, shall comply with all safety measures initiated by the Contractor and with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property in accordance with the requirements of the Contractor Documents. The Subcontractor shall report within three (3) days to the Contractor any injury to any Subcontractor's employees at the site.

11.6 CLEANING UP

11.6.1 The Subcontractor shall at all times keep the premises free from accumulation of waste materials or rubbish arising out of the operations of this Subcontract. Unless otherwise provided, the Subcontractor shall not be held responsible for unclean conditions caused by other contractor or subcontractors.

11.6.2 All debris of Subcontractor that Lanco Construction, Inc must remove and/or haul off will be at subcontractor's expense.

11.6.3 CLEANING UP. Subcontractor shall, at its own expense: (a) keep the premises at all times free from waste materials, packages and other debris accumulated in connection with the Work by collecting and removing such debris from the job site on a daily or hourly basis as requested by Contractor; (b) at the completion of the Work in each area, sweep and otherwise make the Work and its immediate vicinity "broom-clean"; (c) remove all of its tools, equipment, scaffolds, temporary structures and surplus materials as directed by Contractor at the completion of the Work; (d) at final inspection clean and prepare the Work for acceptance by Owner. Subcontractor agrees to provide all cleaning and clean up required under the Contract Documents pertaining to the Work to the extent such requirements are in excess of those contained in this paragraph.

11.7 WARRANTY

11.7.1 The Subcontractor warrants to the Owner, the Architect and the Contractor that all materials and equipment furnished shall be new unless otherwise specified, and that all Work under this Subcontract shall be of good quality, free from faults and defects and in conformance with Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The warranty in this Paragraph 11.7 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

11.8 APPLICATIONS FOR PAYMENT

11.8.1 The Subcontractor shall submit to the Contractor applications for payment at such time as stipulated in Article 5 to enable the Contractor to apply for payment.

11.8.2 All applications shall be on Lanco's Form

11.8.3 If application is not received by Lanco as required, the Subcontractor must accept Lanco's percent completions for said billing period.

11.9 CHANGES IN THE WORK

11.9.1 The Subcontractor may be ordered in writing by Contractor, without invalidating this Subcontract, to make changes in the Work within the general scope of this Subcontract consisting of additions, deletions, or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. The Subcontract, prior to the commencement of such change or revised Work, shall submit promptly to the Contractor written copies of any adjustments to the Contract Sum and Contract Time for such revised Work in a manner consistent with the Contract Document.

11.10 CLAIMS OF THE SUBCONTRACTOR

11.10.1 The subcontractor shall make all claims promptly to the Contractor for additional cost, extensions of time, and damages for delays or other causes in accordance with the Contract Documents. Any such claim which will affect or become part of a claim which the Contractor is required to make under the Contract Documents within a specified time period or in a specified manner shall be made in sufficient time to permit the Contractor to satisfy the requirements of the Contract Documents. Such claims shall be received by the contractor not less than two (2) working days preceding the time which the Contractor's claim must be made. Failure of the Subcontractor to make such a timely claim shall bind the Subcontractor to the same consequences as those to which the Contractor is bound.

11.11.1 INDEMNITY. To the full extent permitted by law, Subcontractor agrees to defend, indemnify and save harmless Contractor and Owners, as well as any other parties which Contractor is required under Contract Documents to defend, indemnify and hold harmless, and their agents, servants and employees, from and against any claim, cost, expense, or liability (including attorney's fees), attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from, or occurring in connection with the performance of the Work by Subcontractor, it subcontractors and suppliers, or their agents, servants, or employees, whether or not caused in part by the active or passive negligence or other fault of a party indemnified hereunder; provided, however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, damage or destruction is caused by the sole negligence of a party indemnified hereunder. Subcontractor's obligations hereunder shall not be limited by the provisions of any worker's compensation or similar act. Subcontractor hereby agrees that One Hundred Dollars and No /Cent (\$100.00) of the price constitutes the separate consideration for Subcontractor's indemnity hereunder. Such amount shall be deemed paid out of the first application for payment pair hereunder.

11.11.1a Should Owner or any other person or entity assert a claim or institute a suit, action or proceeding against Contractor involving the manner or sufficiency of performance of the Work, Subcontractor shall upon the request of the Contractor promptly assume defense of such claim, suit, action or proceeding at Subcontractor's expense and Subcontractor shall indemnify and save harmless Contractor as well as anyone to be defended, indemnified and held harmless by Contractor and its or their agents, servants and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit, action, or proceeding.

11.11.2 In any and all claims against the Owner, the Architect, or the Contractor or any of their agents or employees by any employee of the Subcontractor, anyone directly or indirectly employed by him or anyone for whose acts he may be liable, the indemnification obligation under the Paragraph 11.11 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under workers' or workmen's compensation acts, disability acts or other employee benefit acts.

11.11.3 The obligations of the Subcontractor under this Paragraph 11.11 shall not extend to the liability of the Architect, his agents or employees arising out of (1) the preparation or approval of maps, drawings, opinion, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, his agents or employees provided such giving or failure to give is the primary cause of the injury or damage.

11.12 SUBCONTRACTOR'S REMEDIES

11.12.1 If the Contractor does not pay the Subcontractor through no fault of the Subcontractor, within seven (7) days from the time payment should be made as provided on Paragraph 12.4 the Subcontractor may, without prejudice to any other remedy he may have, upon seven (7) additional day's written notice to the Contractor, stop his work until payment of the amount owing has been received. The Contract Sum shall, by appropriate adjustment, be increased by the amount of the Subcontractor's reasonable cost of shutdown, delay and start-up.

12.1 RIGHTS AND RESPONSIBILITIES

12.1.1 The contractor shall be bound to the Subcontractor by the terms of this Agreement, and to the extent that provisions of the Contract Documents between the Owner and the Contractor apply to the Work of the Subcontractor as defined in this Agreement, the Contractor shall assume toward the Subcontractor all the obligations and responsibilities that the Owner, by those Documents, assumes toward the Contractor, and shall have the benefit of all rights, remedies and redress against the Subcontractor which the Owner, by those Documents, has against the Contractor. Where any provision of the Contract Documents between the Owner and the Contractor is inconsistent with provisions of this Agreement, this Agreement shall govern.

12.2 SERVICES PROVIDED BY THE CONTRACTOR

12.2.1 The Contractor shall cooperate with the Subcontractor in scheduling and performing his work to avoid conflict or interferences in the Subcontractor's Work and shall expedite written responses to submittals made by the Subcontractor in accordance with Paragraph 11.2, 11.9 and 11.10. As soon as practicable after execution this Agreement, the Contractor shall provide the subcontractor a copy of the estimated progress schedule of the Contractor's entire Work which the Contractor has prepared and submitted for the Owner's and the Architect's information, together with such additional scheduling details as will enable the Subcontractor to plan perform his Work properly. The Subcontractor shall be notified promptly of any changes in the progress schedule and the additional schedule details.

12.2.2 The Contractor shall provide suitable areas for storage of the Subcontractor's materials and equipment during the course of the work..

12.3 COMMUNICATIONS

12.3.1 The Contractor shall promptly notify the Subcontractor of all modifications to the Contract between the Owner and the Contractor which affect this Subcontract which were issued or entered into subsequent to the execution of this Subcontract.

12.3.2 The Contractor shall not give instructions or orders directly to employees or workmen of the Subcontractor except to persons designated as authorized representatives of the Subcontractor.

12.4 PAYMENTS TO THE SUBCONTRACTOR

12.4.1 Unless otherwise provided in the Contract Documents, the Contractor, the Contractor shall pay the Subcontractor each progress payment and the final payment under this Subcontract within seven (7) working days after he receives payment from the Owner, except a provided in Subparagraph 12.4.3. The amount of each progress payment to the Subcontractor shall be the amount to which the Subcontractor is entitled, reflecting the percentage of completion allowed to the Contractor for the work of this Subcontractor applied to the Contract Sum of this Subcontract, and the percentage actually retained, if any, from payments to the Contractor on account of such Subcontract's Work, plus to the extent permitted by the Contract Documents, the amount allowed for materials and equipment suitably stored by the Subcontractor, less the aggregate of previous payments to the Subcontractor.

12.4.2 The Contractor shall permit the Subcontractor to request directly from the Architect information regarding the percentages of completion or the amount certified on account of Work done by the Subcontractor.

12.4.3 Unless Contractor's/Owner Agreement stipulates otherwise, a 10% retainage will be with held on all phases of this subcontract

12.5 CLAIMS BY THE CONTRACTOR

12.5.1 The Contractor shall make no demand for liquidated damages for delay in any sum in excess of such amount as may be specifically named in this Subcontract, or as outlined in the Contractor's contract with Owner, and liquidated damages shall be assessed against this Subcontractor only for his negligent acts and his failure to act in accordance with the terms of this agreement, and in no case for delays or causes arising outside the scope of this Subcontract, or for which other subcontractors are responsible.

12.5.2 Except as may indicated in this Agreement, the Contractor agrees that no claim for payment for services rendered or materials and equipment furnished by the Contractor to the Subcontractor shall be valid without prior notice to the Subcontractor and unless written notice thereof is given by the Contractor to the Subcontractor not later than the tenth day of the calendar month following that in which the claim originated.

12.6 CONTRACTOR'S REMEDIES

12.6.1 If the Subcontractor defaults or neglects to carry out the Work in accordance with this Agreement and fails within one (1) working day after receipt of notice from the Contractor to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may, after one day following receipt by the Subcontractor of an additional notice, and without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payments then or thereafter due the Subcontractor; provided, however, that if such action is based upon faulty workmanship or materials and equipment, the Architect or Contractor shall first have determined that the workmanship or materials and equipment are not in accordance with the Contract Documents.

ARTICLE 13. ARBITRATION

13.1 All claims, disputes and other matters in question arising out of , or relating to, this Subcontract, or the breach there, shall be decided by arbitration, which shall be conducted in the same manner and under the same procedure as provided in the Contract Documents with respect to disputes between the Owner and the Contractor, except the decision by the Architect shall not be a condition precedent to arbitration. If the Contract Documents do not provide for arbitration or fail to specify the manner and procedure for arbitration, it shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise.

13.2 Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the Contract Documents shall include by consolidation, joined or in any other manner, any person or entity not a party to the Agreement under which such arbitration arises, unless it is shown at the time the demand for arbitrations filed that (1) such person or entity is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, (3) the interest or responsibility of such person or entity in the matter is not insubstantial, and (4) such person or entity is not the Architect, his employee or his consultant. This agreement to arbitrate and any other written agreement to arbitrate and any other written agreement to arbitrate with an additional person or persons referred to herein shall be specifically enforceable under the prevailing arbitration law.

13.3 The Contractor shall permit the Subcontractor to be present and to submit evidence in any arbitration proceeding involving his rights.

13.4 The Contractor shall permit the Subcontractor to exercise whatever rights the Contractor may have under the Contract Documents in the choice of Arbitrators in any dispute, if the sole cause of the dispute is the Work, materials, equipment, rights or responsibilities of the Subcontractor; or if the dispute involves the Subcontractor and any other subcontractor or subcontractors jointly, the Contractor shall permit them to exercise such rights jointly.

13.5 The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

13.6 This Article shall not be deemed a limitation of any rights or remedies which the Subcontractor may have under any Federal or State mechanics' lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by him.

ARTICLE 14. TERMINATION

14.1 TERMINATION BY THE SUBCONTRACTOR

14.1 If the Work is stopped for a period of thirty (30) days through no fault of the Subcontractor because the Contractor has not made payments thereon as provided in this Agreement, then the Subcontractor may without prejudice to any other remedy he may have, upon seven (7) additional days' written notice to the contractor, terminate this Subcontract and recover from the Contractor payment for all Work executed and for any proven loss resulting from the stoppage of the Work, including reasonable overhead and profit of 10%.

14.2 TERMINATION BY THE CONTRACTOR

14.2.1 If the Subcontractor persistently or repeatedly fails or neglect to carry out the Work in accordance with the Contract Documents or otherwise to perform in accordance with the Agreement and fails within one (1) day after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may after one (1) day following receipt by the subcontractor of an additional written notice and without prejudice to any other remedy he may have, terminate the Subcontract and finish the Work by whatever method he may deem expedient. If the unpaid balance of the Contract Sum exceeds the expense of finishing the Work, such excess shall be paid to the Subcontractor, but if such expense exceeds such unpaid balance, the Subcontractor shall pay the difference to the Contractor, plus a twenty-five (25%) percent overhead margin.

ARTICLE 15. MISCELLANEOUS PROVISIONS

15.1 Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

15.2 The Contract Documents, which constitute the entire Agreement between the Owner and the Contractor, are listed in Article 1, and the documents which are applicable to this Subcontract, except for Addenda and Modifications issued after execution of the Subcontract, are enumerated as follows:

15.3 The Subcontractor will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The Subcontractor will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the subcontracting officer setting forth the provisions of this nondiscrimination clause.

This Agreement entered into as of the day and year first written above.

CONTRACTOR

LANCO CONSTRUCTION, INC.

LOUIS J. LANZA IV

DATE

SUBCONTRACTOR

B & C LAND SERVICES, LLC

OFFICER OF COMPANY

DATE