

**MINUTES OF THE BOARD OF TRUSTEES OF  
STATE INSTITUTIONS OF HIGHER LEARNING  
September 20, 2006**

**BE IT REMEMBERED**, That the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi met in a regular session at the Board Office in Jackson, Mississippi, at 1:30 p.m., and pursuant to notice in writing mailed by certified letter with return receipt requested on August 21, 2006, to each and every member of said Board, said date being at least five days prior to this September 20, 2006 meeting. At the above-named place there were present the following members to wit: Mr. H. Ed Blakeslee, Dr. Stacy Davidson, Mr. Roy Estess, Dr. D. E. Magee, Jr., Dr. Bettye Henderson Neely, Ms. Virginia Shanteau Newton, Mr. Bob Owens, Mr. Aubrey B. Patterson, Ms. Robin J. Robinson, Mr. Scott Ross and Ms. Amy Whitten. Mr. Thomas W. Colbert was absent. The meeting was called to order by Dr. D. E. Magee, President. A moment of silence was observed in remembrance of Dr. Clinton Bristow followed with a prayer by Mr. Blakeslee.

**APPROVAL OF THE MINUTES**

On motion by Ms. Whitten, seconded by Ms. Robinson, with Mr. Colbert and Ms. Newton absent and not voting, it was

**RESOLVED**, That the Minutes of the regular Board meeting held on August 16, 2006, and the special Board meeting held on August 20, 2006, stand approved.

**ANNOUNCEMENTS**

1. Dr. Meredith thanked the Board members and the IHL staff members for the good work accomplished at the Joint Legislative Budget Committee hearing this morning. Special thanks went to Ms. Annie Mitchell, IHL Director of Media Relations, Communications, and Marketing, who coordinated the efforts.
2. Dr. Meredith introduced and welcomed Mr. Robert Bass, IHL Project Director—Gulf Coast operations.
3. Dr. Claudia Limbert, President of Mississippi University for Women, introduced Dr. Gary Bouse, Vice President for Institutional Advancement. Dr. Bouse will be overseeing alumni relations, development, the MUW Foundation, public affairs, sponsored programs, and the webmaster. Dr. Limbert then introduced Ms. Jan Miller, Director of Alumni Relations, who is a 1979 MUW graduate.
4. Dr. Meredith welcomed J. R. Love, Student Body President at Mississippi State University and President of the Student Body President's Council of Mississippi, and Roun McNeil, Student Body President at The University of Mississippi.
5. Dr. Meredith thanked Ms. Jeri Knapp, IHL Administrative Assistant in the Commissioner's Office, who did an excellent job in the presentation to the Joint Legislative Budget Committee hearing this morning.

**CONSENT AGENDA**

On motion by Mr. Blakeslee, seconded by Dr. Neely, with Mr. Colbert and Ms. Newton absent and not voting, it was

**RESOLVED**, That the Board hereby approved the request to move agenda items #4, #5, #8 and #9 from the Consent Agenda to the regular Real Estate & Facilities Agenda. The remaining Consent Agenda items were approved on a separate motion by Mr. Estess, seconded by Mr. Blakeslee, with Mr. Colbert and Ms. Newton absent and not voting.

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**BUDGET, FINANCE & AUDIT**

1. **MUW** - Approved a budget escalation in the Auxiliary budget for \$281,228. Funds will be provided from revenues from community living and printing revenues.

<b>Object of Expenditure</b>	<b>Current Budget 2006-2007</b>	<b>Budget Revision #1</b>	<b>Revised Budget 2006-2007</b>
Salaries, Wages and Fringe Benefits	\$340,508	\$117,980	\$458,488
Travel and Subsistence	\$25,050		\$25,050
Contractual Services	\$2,165,007		\$2,165,007
Commodities	\$154,934		\$154,934
Capital Outlay			\$0
Other than Equipment	\$0		\$0
Equipment	\$31,000		\$31,000
Subsidies, Loans and Grants (Transfers)	\$510,408	\$163,248	\$673,656
<b>Total</b>	<b>\$3,226,907</b>	<b>\$281,228</b>	<b>\$3,508,135</b>

2. **UM** - Approved the request to execute Modification Number 2 on an IHL Board Office contract Number 2005-114E –MARIS Technical Center for the purchase of GIS/Remote Sensing software licenses to be distributed and utilized by all institutions of higher learning and community colleges throughout Mississippi. The total expenditure under the modified contract is \$307,567. Funds are provided by the Mississippi Legislature for this purpose. A copy of the modified contract, which was reviewed and approved by the Attorney General’s Office, is on file in the Board Office.
3. **UMMC** - Approved the following contracts which have been reviewed and approved by the Attorney General’s Office:
- a. Renew a contract with Hill-Rom Company. This contract will provide for the management and operation of the patient equipment department including an expansion of the current services offered. The three-year contract will not exceed \$1.2 million. The contract begins October 1, 2006. The cost will be covered from patient fee revenue. A copy of the contract is included in the *September 20, 2006 Board Working File*.
  - b. Renew an agreement with Envoy/ExpressBill, Inc. The one-year contract will begin on October 1, 2006 and will not exceed \$500,000 annually. A copy of the contract is included in the *September 20, 2006 Board Working File*.

**REAL ESTATE & FACILITIES**

4. **UM** - Initiation of **GS 107-286, Coulter Hall Renovations**, grant permission to start the selection process for Design Professionals and request approval by the Bureau of Building, Grounds and Real Property Management. The project budget is approximately \$3,000,000 and will be funded by H.B.1634, Laws of 2006. **(THIS ITEM WAS MOVED TO THE REGULAR REAL ESTATE AND FACILITIES AGENDA.)**

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5. **UM** - Initiation of **GS 107-287, Hill Hall Renovations**, grant permission to start the selection process for a Design Professional and request approval by the Bureau of Building. The project budget is approximately \$1,600,000 and will be funded by H.B. 1634, Laws of 2006. **(THIS ITEM WAS MOVED TO THE REGULAR REAL ESTATE AND FACILITIES AGENDA.)**
6. **UMMC** - Approved the initiation of **IHL 209-498, DIS Generator**, to furnish and install a generator system for the DIS Building and the appointment of Power Source, PLLC as the project professionals. Funds are available from Interest Income in the amount of \$350,000.
7. **System Administration** - Approved the initiation of **IHL 111-041, Education and Research Center, Phase II**, for repairs and renovations. The estimated project budget is \$182,474. Funds are available in the amount of \$200,000 from S.B. 1634, Laws of 2006.
8. **UM** - Construction Documents as prepared by Shafer and Associates and request approval by the Bureau of Building for **IHL 207-284, Meek Auditorium/2nd & 3rd Floor Renovation**. The project budget is approximately \$2,000,000 and will be funded by self-generated funds. **(THIS ITEM WAS MOVED TO THE REGULAR REAL ESTATE AND FACILITIES AGENDA.)**
9. **MUW** – Award of a contract to the lowest of three bidders, Mast Construction, in the amount of \$728,900 and request approval by the Bureau of Building for **GS 104-148, 2003 ADA Program, Shackelford Warehouse**. Funds are available through S.B. 3158, Laws of 2001; S.B. 3197, Laws of 2002 and S.B. 2988, Laws of 2003. **(THIS ITEM WAS MOVED TO THE REGULAR REAL ESTATE AND FACILITIES AGENDA.)**
10. **UM** – Approved the request to formally name the new physical plant office building in honor of John W. White, who was the physical plant director for over 20 years.

**PERSONNEL REPORT**

**EMPLOYMENT**

**Alcorn State University**

Trowbridge, Emery  
Williams, Malvin

**Delta State University**

Redlin, Greg

**Mississippi State University**

Carter, Lemuria D.  
Yoder, Timothy R.  
Yuan, Changhe  
Zhang, Song

**Mississippi University for Women**  
Smyth, Patricia

**University of Mississippi - Athletics**  
Reinstette, Robert A.

**University of Mississippi Medical Center**  
Norris, Mildred R.  
Steiner, Michael

**University of Southern Mississippi**  
Canterbery, Ray E.  
Haggard, Dana L.  
Haggard, K. Stephen

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Hood, Matthew E.  
Wittmann, Jr., C. Michael

**CHANGE OF STATUS**

**Jackson State University**

Aliabadi, Shahrouz  
Price, Gregory  
Yu, Hongtao

**Mississippi State University - Athletics**

Carr, Laversa A.

**Mississippi State University**

Reichert, Nancy A.

**University of Southern Mississippi - Athletics**

Bower, Jeffrey J.

**TERMINATION**

**Delta State University**

Campbell, Julie N.  
Clark, Julie  
Coughlin, Richard  
Hales, Brent  
Hamill, Teresa J.  
Herring, Showen M.  
Jones, Michael David  
Lewis, Kathryn

Pinkerton, Lisa S.  
Potter, Rhonda F.  
Powell, Barbara J.  
Sanders, Katrina  
Smith, Elizabeth  
Sudbrink, Donald

**Mississippi State University**

Champlin, Franklin R.  
Crabtree, Milo J.  
Estevez, Luis A.

**University of Mississippi Medical Center**

Adcock, Sarah C.  
Araghizadeh, Farshid  
Carroll, Charles S.  
Moyer, Amanda T.  
Santiago, Maria E.  
Stafford, James L.  
Wafapoor, Hussein

**SABBATICAL LEAVE**

**Mississippi University for Women**

Peveler, Willard W.

**EMERITA/EMERITUS STATUS**

**University of Mississippi**

Augenbaugh, Nolan B.

**EDUCATIONAL POLICIES & PROGRAMS AGENDA**

Presented by Dr. Bettye Neely, Chair

On motion by Dr. Neely, seconded by Dr. Davidson, with Mr. Colbert and Ms. Newton absent and not voting, it was

**RESOLVED**, That the Board hereby approved agenda item #2 as submitted on the following Educational Policies & Programs Agenda. Agenda item #3 was approved on a separate motion by Dr. Neely, seconded by Dr. Davidson, with Mr. Colbert and Ms. Newton absent and not voting.

1. **Other Business** - Dr. Meredith welcomed Dr. Lynn House, IHL Assistant Commissioner for Academic and Student Affairs, to her first IHL Board meeting.

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2. **System Administration** – Modifications to existing academic units.
  - a. **JSU** - Approved the request to change the name of the School of Public Health to the School of Health Sciences. The name change request is in response to notification by the Council on Education for Public Health that the title “School of Public Health” is reserved for accredited schools of public health or those in applicant status for school accreditation. As JSU does not have the minimum twenty-five faculty members necessary to pursue school accreditation, it will presently pursue accreditation for the Master of Public Health degree program for which the university meets the faculty requirement. When JSU attains the minimum number of faculty members necessary to pursue school accreditation, it will pursue school accreditation and request to change the unit’s name back to the School of Public Health. No new resources will be required for this change.
  - b. **MSU** - Approved the request to change the name of the School of Accountancy to the Richard C. Adkerson School of Accountancy. The name change request is in response to a pledge of \$5 million by Richard and Nancy Adkerson to endow the School of Accountancy. MSU will use the endowment to fund additional costs related to faculty (e.g., endowed faculty positions) and students (e.g. scholarships). No new resources will be required for this change.
3. **System Administration** - Approved the appointment of Dr. Hal E. Jenkins, Dean of Education at the Mississippi University for Women, to serve on the Commission on Teacher and Administrator Education, Certification and Licensure and Development with a retroactive appointment date of September 1, 2006, and ending August 31, 2010.

**BUDGET, FINANCE & AUDIT AGENDA**

Presented by Mr. Aubrey Patterson, Chair

On motion by Mr. Patterson, seconded by Dr. Neely, with Mr. Colbert and Ms. Newton absent and not voting, it was

**RESOLVED**, That the Board hereby approved agenda item #1 as submitted on the following Budget, Finance & Audit Agenda.

1. **MSU** - Approved the request to purchase from the low bidder, Sun Microsystems, computer equipment for the High Performance Computing Collaboratory in the amount of \$1,299,690.60. The request is for 512 computer servers and peripherals in order to assemble a new high-performance computing cluster linked together allowing the computers to function as a single supercomputer. Funds are being furnished from designated funds.

**REAL ESTATE & FACILITIES AGENDA**

Presented by Mr. Ed Blakeslee, Chair

**AGENDA ITEMS #1 - #3 AND #6 WERE MOVED FROM THE CONSENT AGENDA TO THE REGULAR REAL ESTATE & FACILITIES AGENDA.** On motion by Mr. Blakeslee, seconded by Dr. Davidson, with Mr. Colbert and Ms. Newton absent and not voting, it was

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**RESOLVED**, That the Board hereby approved items #1 and #2 as shown below. Agenda items #3, #4 and #5 were approved on a separate motion by Mr. Blakeslee, seconded by Ms. Robinson, with Mr. Colbert and Ms. Newton absent and not voting. Agenda items #6 and #7 were approved on a separate motion by Mr. Blakeslee, seconded by Mr. Patterson, with Mr. Colbert and Ms. Newton absent and not voting. Agenda item #8 was approved on a separate motion by Mr. Blakeslee, seconded by Dr. Davidson, with Mr. Colbert and Ms. Newton absent and not voting. Agenda item #9 was approved on a separate motion by Mr. Blakeslee, seconded by Dr. Davidson, with Mr. Colbert and Ms. Newton absent and not voting. Agenda item #10 was approved on a separate motion by Mr. Blakeslee, seconded by Dr. Neely, with Mr. Colbert and Ms. Newton absent and not voting. Agenda item #11 was approved on a separate motion by Mr. Blakeslee, seconded by Dr. Davidson, with Mr. Colbert and Ms. Newton absent and not voting.

1. **UM** - Approved the initiation of **GS 107-286, Coulter Hall Renovations**, and start the selection process for Design Professionals. The project budget is approximately \$3,000,000 and will be funded by H.B.1634, Laws of 2006. **(THIS ITEM WAS MOVED FROM THE CONSENT AGENDA.)**
2. **UM** - Approved the initiation of **GS 107-287, Hill Hall Renovations**, and start the selection process for a Design Professional. The project budget is approximately \$1,600,000 and will be funded by H.B. 1634, Laws of 2006. **(THIS ITEM WAS MOVED FROM THE CONSENT AGENDA.)**
3. **UM** - Approved the Construction Documents as prepared by Shafer and Associates for **IHL 207-284, Meek Auditorium/2nd & 3rd Floor Renovation**. The project budget is approximately \$2,000,000 and will be funded by self-generated funds. **(THIS ITEM WAS MOVED FROM THE CONSENT AGENDA.)**
4. **MVSU** - Approved the Construction Documents as prepared by the project professionals, Billes Architecture in association with Dale and Associates, for **IHL 206-019, New Campus Residence Halls**. It has been determined by the university that the construction documents are within the project's scope. Final funding will be made available for the project by the Education Building Corporation in the amount of \$11,071,204.
5. **MVSU** - Approved the Construction Documents as prepared by the project professionals, Vernell Barnes Architect in association with Pryor and Morrow Architects, for **IHL 206-020, Campus Residence Hall Renovation**. It has been determined by the university that the construction documents are within the project's revised scope. Final funding will be made available for the project by the Education Building Corporation in the amount of \$3,900,000.
6. **MUW** – Approved the award of a contract to the lowest of three bidders, Mast Construction, in the amount of \$728,900 for **GS 104-148, 2003 ADA Program, Shackelford Warehouse**, and request approval by the Bureau of Building. Funds are available through S.B. 3158, Laws of 2001; S.B. 3197, Laws of 2002; and S.B. 2988, Laws of 2003. **(THIS ITEM WAS MOVED FROM THE CONSENT AGENDA.)**

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7. **MVSU** - Approved the request to reject the bids received, authorized re-advertising for the receipt of bids, and request approval by the Bureau of Building for **GS 106-198, Science & Technology Center**. Funds were not sufficient in the project budget to allow for the award of laboratory equipment or furniture and equipment. Bids will be received on November 21, 2006.
8. **MSU** - Approved the resolution designating James A. Jones as the agent authorized to execute applications for the purpose of obtaining and administering certain federal financial assistance under the Disaster Relief Act of 1975 (Public Law 93-288), amended by Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Public Law 100-707), and to file them with the Governor's Authorized Representative. A copy of the resolution is on file at the IHL Board Office.
9. **UM** – Approved the sale of a 0.303 acre tract in the amount of \$95,000 to Stuart Brown, a developer who wishes to build a hotel in Oxford near the university's campus. The parcel is separated from the university's Oxford campus by a major thoroughfare and lies to the northeast of the intersection of Jackson Avenue and the old railroad right-of-way. Two recent appraisals value the university tract between \$90,000 and \$95,000.
10. **UM** - Approved the request to sub-lease approximately 2,500 square feet of space in the Jackson Medical Mall. In November 1997, the Board approved leasing approximately 10,692 square feet of space for the School of Pharmacy. This sub-lease is to the CNA Training Center, Inc. for training nursing assistants. The lease would be for five years starting October 1, 2006, and the lease payments would directly reflect the amount paid for this space by the School of Pharmacy. Currently, this amount is approximately \$2,623.37 per month, but will go up in August 2007 due to a scheduled rent increase, and will also be increased any time that the Jackson Medical Mall Foundation imposes an increase in the amount charged the School of Pharmacy for central area maintenance. The lease is for 180 months and will be paid from CNA's student tuition.
11. **UMMC** - Approved the request to dispose of two tracts of land at the University Hospital in Lexington, Mississippi. One 0.26 acre tract is to be sold to the U.S. Corps of Engineers, fee simple for \$11,000 and one 0.22 acre tract is to be leased as a perpetual road easement for \$1,500 to Holmes County. An enlarged drainage structure will be constructed on the property which is located near the University Hospital. The construction is part of the Delta Headwaters Project, Black Creek Watershed, Lexington Levee, Structures and Channel Improvement Project. The project will improve Black Creek by helping to alleviate flooding in Lexington.
12. **System Administration (Information item.)** - The Board received the Real Estate & Facilities items that were approved by the Board staff subsequent to the August 16, 2006 Board meeting in accordance with Board Policy 901.03 Facilities Staff Responsibilities. **(See Exhibit 1.)**
13. **Other Business** - Dr. Meredith thanked Dr. Shelby Thames, President of The University of Southern Mississippi, for donating 50 gallons of paint to the IHL Board Office to be used on the interior walls.

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**LEGAL AGENDA**

Presented by Mr. Bob Owens, Chair

On motion by Mr. Owens, seconded by Ms. Whitten, with Mr. Colbert and Ms. Newton absent and not voting, it was

**RESOLVED**, That the Board hereby approved agenda item #1 as submitted on the following Legal Agenda. On motion by Mr. Owens, seconded by Ms. Robinson, with Mr. Colbert and Ms. Newton absent and not voting, the Board approved moving agenda item #2 to the list of items to be taken up during executive session. **AGENDA ITEM #2 WAS TAKEN UP IN EXECUTIVE SESSION LATER IN THE MEETING.** Agenda item #3 was approved on a separate motion by Mr. Owens, seconded by Ms. Whitten, with Mr. Colbert and Ms. Newton absent and not voting.

1. **MSU** - Approved the request to enter into a contract for legal services with the firm of Shulman, Rogers, Gandal, Pordy & Ecker, P.A. located at 11921 Rockville Pike, Rockville, MD 20852-2743, to provide services necessary in connection with re-banding negotiations with Nextel Communications. Under this Agreement, the Firm will provide to MSU the following services: (1) Planning Funding Negotiation; (2) Re-Banding Negotiations (Nextel & Transition Administrator) for all phases of the project; and (3) New Frequency Evaluation with regard to co-channel and adjacent channel spacing. The term of the contractual agreement will be for one (1) year. MSU elects to have the Firm's compensation paid directly to the Firm by Nextel or the Transition Administrator. The Firm will assume the risk of payment or reimbursement of fees through Nextel and/or the Transition Administrator. MSU shall owe no fees to anyone or any party under this contract since all fees and compensation for services are to be paid by Nextel or the Transition Administrator. A copy of the contract, which was reviewed and approved by the Attorney General's Office, is available at the IHL Board Office.
2. **UMMC** - Request approval to settle tort claim #830. **(THIS ITEM WAS TAKEN UP DURING EXECUTIVE SESSION.)**
3. **System Administration** - Approved the *Ayers Accountability Manual*. A copy of the manual is included in the *September 20, 2006 Board Working File*.

**GOVERNANCE AGENDA**

Presented by Dr. Stacy Davidson, Chair

On motion by Dr. Davidson, seconded by Ms. Whitten, with Mr. Colbert and Ms. Newton absent and not voting, it was

**RESOLVED**, That the Board hereby approved agenda item #1 as submitted on the following Governance Agenda.

1. **System Administration** - Approved the proposed new policies 1109 Rules for Oral Proceedings and 1110 Requests for Declaratory Opinions. These policies substantially mirror the model rules adopted by the Mississippi Secretary of State's Office. **(See Exhibit 2.)**

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**PERSONNEL AGENDA**

Presented by Dr. Thomas Meredith, Commissioner

On motion by Dr. Davidson, seconded by Mr. Blakeslee, with Mr. Colbert and Ms. Newton absent and not voting, it was

**RESOLVED**, That the Board hereby approved the agenda item #1 as submitted on the following Personnel Agenda. Agenda item #2 was approved on a separate motion by Ms. Whitten, seconded by Dr. Davidson, with Mr. Colbert and Ms. Newton absent and not voting.

1. **System Administration** - Approved the employment of Dr. Reginald Sykes as the IHL Assistant Commissioner for Community and Junior College Relations at a salary of \$125,000. Also, approved a salary of \$125,000 for Mr. Robert Bass, IHL Project Director— Gulf Coast operations.
2. **UM** - Approved the establishment of a new position, Senior Vice Chancellor for Planning and Operations. This position will report directly to the Chancellor and Provost. This position will support the Chancellor in the areas of management, institutional initiatives, planning functions and serve as a liaison between the Chancellor's office and various university foundations and associations.

**ANNOUNCEMENTS**

1. Dr. Magee welcomed Dr. Malvin Williams who is serving as the Interim President of Alcorn State University until a permanent replacement can be designated.
2. Each university presented its campus master plan to the Board.

**EXECUTIVE SESSION**

On motion by Dr. Magee, with Mr. Colbert, Mr. Ross and Ms. Whitten absent and not voting, the Board voted to close the meeting to determine whether or not it should declare an Executive Session. On motion by Dr. Magee, seconded by Mr. Patterson, with Mr. Colbert, Mr. Ross and Ms. Whitten absent and not voting, the Board **voted to go into Executive Session** for the reason later reported by the President in Open Session and stated in these minutes, as follows:

Discussion of a litigation matter at the University of Mississippi Medical Center.

**On motion by Dr. Magee, seconded by Ms. Robinson, with Mr. Colbert, Mr. Ross and Ms. Whitten absent and not voting, the Board voted to return to Open Session.**

On motion by Mr. Owens, seconded by Mr. Patterson, with Mr. Colbert, Mr. Ross and Ms. Whitten absent and not voting, the Board approved the settlement of the tort claim case styled *Tammie M. Earl v. UMMC* (Tort Claim #830).

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**ADJOURNMENT**

There being no further business to come before the Board, on motion by Ms. Newton, seconded by Dr. Neely, with Mr. Colbert, Mr. Ross and Ms. Whitten absent and not voting, the Board members voted to adjourn.



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President, Board of Trustees of State Institutions of Higher Learning



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Commissioner, Board of Trustees of State Institutions of Higher Learning

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**EXHIBITS**

- Exhibit 1                      Real Estate & Facilities items that were approved by the Board staff subsequent to the August 16, 2006 Board meeting.
- Exhibit 2                      Proposed new policies 1109 Rules for Oral Proceedings and 1110 Requests for Declaratory Opinions.

# EXHIBIT 1

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**Real Estate & Facilities items that were approved by the IHL Board staff subsequent to the August 16, 2006 Board meeting in accordance with Board Policy 901.03 Facilities Staff Responsibilities.**

**The following item was approved by the Chairman, Real Estate and Facilities Committee, due to emergency needs and time sensitive issues:**

## **USM – GS 108-231 Visualization Center Stennis Center Phase II**

The Chairman and Board Staff approved the bids and requested approval and award of a contract by the Bureau of Building, Grounds and Real Property Management to the only bidder, Casablanca Construction, Inc., in the amount of \$1,250,000 for GS 108-231, Visualization Center/Stennis Center Phase II. Funds are available in the project budget.

**Other items approved subsequent to the August 16, 2006 Board meeting:**

## **ALCORN STATE UNIVERSITY**

The Board Staff approved Change Order 3 for GS 101-240, ADA Compliance Phase II, in the amount of \$4,235.20 with an increase of 252 calendar days to the contract and requested approval by the Bureau of Building. Funds are available from S.B. 3197, Laws of 2002.

## **DELTA STATE UNIVERSITY**

The Board Staff approved Change Order 3 in the amount of \$18,469.20 with an additional 30 days to the contract of Roy Collins Construction, Inc. for GS 102-208, Renovation of Bailey, Kethley & Union, and requested approval by the Bureau of Building. Funds are available in the project budget from S.B. 2010, Laws of 2004.

## **JACKSON STATE UNIVERSITY**

The Board Staff approved Change Order 3 in the amount of \$5,068 with no change to the contract time for GS 103-221, Baseball Stadium/Field Construction, and requested approval by the Bureau of Building. Funds are available from S.B. 2988, Laws of 2003.

## **MISSISSIPPI STATE UNIVERSITY**

The Board Staff approved the purchase of a custom made head vise for the Lab in the amount of \$628.42 for GS 113-107, F & E Mississippi Veterinary Diagnostic Lab (Whitfield) Phase II, and requested approval by the Bureau of Building. Funds are available in the project budget.

The Board Staff approved Change Order 4 in the amount of \$289,643 with an additional 32 days to the contract of JESCO, Inc. for IHL 205-204, Cullis Wade Depot. The project budget will be increased by \$306,175 to \$8,806,175. Funds are available from institutional monies.

The Board Staff approves Change Order 1 in the amount of \$339,800 for IHL 205-199, McCool Hall Addition/Renovation. There is no change to the contract time. Funds are available in the project budget.

The Board Staff approved Change Order 2 in the amount of \$95,244 with no change to the contract time for IHL 205-199, McCool Hall Addition/Renovation. Funds are available in the project budget.

The Board Staff approved Change Order 3 in the amount of \$26,145 with an additional 7 days to the contract time for IHL 205-199, McCool Hall Addition/Renovation. Funds are available in the project budget.

The Board Staff approved the initiation of a landscape design project for GS 105-294, Landscape, Simulation and Design Center (SimCenter) and requested approval by the Bureau of Building. The work was within the original scope of the SimCenter project. The project budget is \$75,000. The funds are available from S.B. 3197, Laws of 2002, in the amount of \$6,000,000.

The Board Staff approved Change Order 4 in the amount of \$220,830 with 60 additional days to the contract time of Sneed Construction Company for GS 105-278, Lee Hall Renovations, Phase II, and requested approval by the Bureau of Building. Funds are available in the project budget in the amount of \$4,170,258.44.

The Board Staff approved Change Order 4 which adds \$1,835 and 7 days to the contract of West Brothers Construction, Inc., for GS 105-294, Simulation and Design Center, and requested approval by the Bureau of Building. Funds are available from S.B. 3197, Laws of 2002, in the amount of \$6,000,000.

The Board Staff approved an increase in the amount of \$127,952 to the contract of West Brothers Construction, Inc. to add Alternates 2, 4, and 5 for GS 105-309, Colvard Student Union. The original contract sum of \$18,400 will be increased to \$18,527,952. The project budget is \$22,600,000 with funds to be provided from S.B. 3197, Laws of 2002, in the amount of \$14,600,000; S.B. 2010, Laws of 2004, in the amount of \$2,000,000; and Educational Building Corporation Bond proceeds in the amount of \$6,000,000.

#### **UNIVERSITY OF MISSISSIPPI MEDICAL CENTER**

The Board Staff approved Change Order 4 for IHL 209-480, Research Wing Electrical Buss Risers, in the amount of \$30,995 with an increase in time of 160 calendar days to the contract of McInnis Electric. Funds are available in the project budget from Interest Income and Hospital Patient Revenue.

The Board Staff approved Change Order 4 for IHL 209-489, D101/117 Lounge Central Supply Renovations, in the amount of \$4,191 with no increase in contract time for Sunbelt General Contractors. Funds are available in the project budget from Indirect Cost Recoveries and Student fees.

The Board Staff approved Change Order 9 for IHL 209-454 C, Firewall Revisions '02 - Contract II, in the amount of \$17,690 with no increase in contract time for Sunbelt General Contractors. Funds are available from Hospital Patient Revenues.

The Board Staff approved Change Order 2 for GS 109-187, Acute Services Re-Roofing '04, in the amount of \$1,566 with an increase in time of 61 calendar days to the contract of Independent Roofing Systems, Inc., and requested approval by the Bureau of Building. Funds are available from H.B. 1675, Laws of 1999.

# EXHIBIT 2

September 20, 2006

## 1109 Rules for Oral Proceedings

The Board hereby adopts the following Model Rule on Rulemaking Oral Proceedings which applies to all oral proceedings held before the Board for the purpose of providing the public with an opportunity to make oral presentations on proposed new policies and bylaws and any amendments to the Board's *Policies and Bylaws* pursuant to the Administrative Procedures Law.

### 1. Scope

These rules apply to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the Board pursuant to the Administrative Procedures Law.

### 2. When an Oral Proceeding will be Scheduled on a Proposed Rule

Where an oral proceeding has not previously been held or scheduled, the Board will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.

### 3. Format of Request

- a. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches).
- b. The request may be in the form of a letter addressed to the Board or as a pleading filed with a court.
- c. Each request must include the full name, telephone number, and mailing address of the requestor(s).
- d. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

### 4. Notification of Oral Proceeding

The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.

### 5. Presiding Officer

The Agency Head or designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

6. Public Presentations and Participation
- a. Public participation shall be permitted at oral proceedings in accordance with the following sections.
  - b. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
  - c. Persons wishing to make oral presentations at such a proceeding shall notify the Board at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Board.
  - d. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
  - e. The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
  - f. Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
  - g. There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the partisan's time where the orderly conduct of the proceeding so requires.
7. Conduct of Oral Proceeding
- a. Presiding Officer  
The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall (i) call proceeding to order; (ii) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Board for the proposed rule; (iii) call on those individuals who have contacted the Board about speaking on or against the proposed rule; (iv) allow for rebuttal statements following all participants' comments; (v) adjourn the proceeding.
  - b. Questions  
The presiding officer, where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

- c. Physical and Documentary Submissions  
Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Board, part of the rulemaking record, and are subject to the Board's public records request procedure.
- d. Recording  
The presiding officer may record oral proceedings by stenographic or electronic means.

## 1110 Requests for Declaratory Opinions

- 1. Scope of Rules  
These sections set forth the Board's rules governing the form and content of requests for declaratory opinions and the Board's procedures regarding the requests as required by Mississippi Code § 25-43-2.103.
- 2. Persons Who May Request Declaratory Opinions
  - a. Any person with a substantial interest in the subject matter may make a request to the Board for a declaratory opinion by following the specified procedures.
  - b. "Substantial interest in the subject matter" as used in this policy means: that a party is directly affected by the Board's administration of the laws within the Board's primary jurisdiction.
  - c. "Primary jurisdiction of the Agency" as used in this policy means the Board has a constitutional or statutory grant of authority in the subject matter at issue.
- 3. Subjects Which May Be Addressed In Declaratory Opinions
  - a. The Board will issue declaratory opinions regarding the applicability to specified facts of:
    - 1. a statute administered or enforceable by the Board,
    - 2. a rule promulgated by the Board, or
    - 3. an order issued by the Board.
- 4. Circumstances In which Declaratory Opinions Will Not Be Issued
  - a. The Board may, for good cause, refuse to issue a declaratory opinion. Without limiting the generality of the foregoing, the circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:
    - 1. the matter is outside the primary jurisdiction of the Board;
    - 2. lack of clarity concerning the question presented;
    - 3. there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
    - 4. the statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

5. the facts presented in the request are not sufficient to answer the question presented;
  6. the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
  7. the request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute or order on which a declaratory opinion is sought;
  8. no controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute, rule, or order;
  9. the question presented by the request concerns the legal validity of a statute, rule or order;
  10. the request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
  11. no clear answer is determinable;
  12. the question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
  13. the answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
  14. the question is currently the subject of an Attorney General's opinion request; or
  15. the question has been answered by an Attorney General's opinion.
- b. A declaratory opinion will not be issued where a similar request is pending before this agency, or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
  - c. A declaratory opinion will not be issued if it may adversely affect the interests of the State, the Board, or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.
  - d. Where a request for a declaratory opinion involves a question of law, the Board may refer the matter to the State Attorney General.
  - e. A declaratory opinion will not be issued where the question involves eligibility for a license, permit, certificate or other approval by the Board or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.
5. Form of the Request for a Declaratory Opinion
    - a. Written Requests Required. Each request must be printed, typewritten or in legible handwriting. Each request must be submitted on standard business letter-size paper (8 1/2" by 11"). Requests may be in the form of a letter addressed to the Board or in the form of a pleading as might be addressed to a court.

- b. Where to Send Requests. All requests must be mailed or delivered to the Board at 3825 Ridgewood Road, Jackson, Mississippi 39211. The request and its envelope shall clearly state that it is a request for a declaratory opinion. Oral and telephone requests are unacceptable.
  - c. Name, Address and Signature of Requestor. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request. The signing party shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative or judicial tribunal.
  - d. Single transaction. A request must be limited to a single transaction or occurrence.
  - e. Question Presented. Each request must contain the following:
    - 1. a clear identification of the statute or rule at issue;
    - 2. the question for the declaratory opinion;
    - 3. a clear and concise statement of all facts relevant to the question presented;
    - 4. the identify of all other known persons involved in or impacted by the factual situation causing the request including their relationship to the facts, name, mailing address and telephone number; and
    - 5. a statement sufficient to show that the person seeking relief has a substantial interest in the subject matter.
  - f. The terms of the proposed opinion suggested by the requestor may be submitted with the request or may be requested by the agency;
  - g. Memorandum of Authorities. A request may contain an argument by the requestor in support of the terms of the proposed opinion suggested by the requestor. The argument may be submitted in the form of a memorandum of authorities, containing a full discussion of the reasons and any legal authorities, in support of such position of the requestor. The agency may request that the argument and memorandum of authorities be submitted by any interested party.
6. Time for Agency's Response
- a. Agency's Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Board shall, in writing:
    - 1. issue an opinion declaring the applicability of the specified statute, rule, or order to the specified circumstances;
    - 2. decline to issue a declaratory opinion, stating the reasons for its action; or
    - 3. agree to issue a declaratory opinion or a written statement declining to issue a declaratory opinion, by a specified time but no later than ninety (90) days after receipt of the written request.
  - b. When Period Begins. The forty-five (45) day period shall begin on the first State of Mississippi business day that the request is received by the Board.

- c. Opinion Not Final for Sixty Days. A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the Board may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.
  
7. Procedure after Request for Declaratory Opinion Received
  - a. Notice by Agency. The Board may give notice to any person that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from persons other than the requestor.
  - b. Notice by Requestor. The requestor, or his attorney, shall append to the request for a declaratory opinion a listing of all persons, with addresses, known to the requestor who may have an interest in the declaratory opinion sought to be issued, and shall mail a copy of the request to all such persons. The requestor or his attorney shall certify that a copy of the request was mailed to all such persons together with this statement: "Should you wish to participate in the proceedings of this request, or receive notice of such proceedings or the declaratory opinion issued as a result of this request, you should contact the Board within twenty days of the date of this request."
  
8. Hearings at the Discretion of the Agency
  - a. Provision for Hearing. If the Board in its sole discretion deems a hearing necessary or helpful in determining any issue concerning a request for a declaratory opinion, the Board may schedule such a hearing. Notice of the hearing shall be given to all interested parties unless waived. Notice mailed by first class mail 7 calendar days prior to the hearing shall be deemed appropriate.
  - b. Proceedings at the Hearing. The procedure for conducting a hearing, including but not limited to the manner of presentation, the time for presentation, and whether and how evidence may be taken, shall be within the discretion of the Board.
  - c. Persons Appearing at the Hearing. The Board shall allow the requestor to participate in any hearing. The Board may allow any other persons or entities to participate in the hearing.
  
9. Public Availability of Requests and Declaratory Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.