

**CITY OF GAUTIER
MEMORANDUM**

To: Samantha Abell, City Manager
From: Jason Pugh, Human Resources Director
Date: January 7th, 2013
Subject: Contract Worker for Shepard State Park

REQUEST:

The Human Resources Department requests that the Gautier City Council consider approving an employment contract with Alicia Johnson to manage Shepard State Park on weekends and holidays.

BACKGROUND:

The City of Gautier will take responsibility for Shepard State Park on January 28th, 2013. Parks and Recreation staff will operate within the park during normal business hours. However, personnel are needed to keep the park functioning on weekends and holidays.

DISCUSSION:

Weekends and holidays are expected to be some of the busiest times for activity at Shepard State Park. Personnel are needed to operate the park during these times. Alicia Johnson has worked at Shepard State Park in this capacity while it was under the control of the State of Mississippi and is familiar with the day to day functions. Mrs. Johnson would be responsible for collection of fees, bookkeeping, and other office duties on weekends and holidays and would directly report to the Cultural Services Department.

The contract fee will be paid from monies collected by the park.

RECOMMENDATION:

The Human Resources Department recommends that the Gautier City Council approve the attached employment contract.

ATTACHMENT(S):

Employment Contract

CITY OF GAUTIER
EMPLOYMENT CONTRACT

This contract is made and entered into by and between the City of Gautier, Mississippi (hereinafter referred to as the City) and Alicia Johnson (hereinafter referred to as Contract Worker) for the professional service as defined in this agreement.

The City of Gautier hereby engages the services of the Contract Worker, and the Contract Worker hereby agrees to render those certain services described in Paragraph I, "Scope of Services", below.

I. Scope of Services: The Contract Worker shall perform and render the following services:

- A. General office duties at Shepard State Park to include bookkeeping, collection of fees, light janitorial duties and park monitoring.
- B. Other duties as assigned at the direction of the Cultural Services Manager.

II. Period of Performance: This Contract shall begin January 28th, 2013.

III. Consideration and Method of Payment:

- A. As consideration for the performance of this Contract, the Contract Worker shall be paid a fee of \$332.20 bi-weekly.
- B. Work Schedule: Weekends while the park is open, Holidays and other days as needed at the direction of the Cultural Services Manager.

IV. Relationship of Parties: It is expressly understood and agreed that the City of Gautier enters into this Contract with Contract Worker based on the purchase of services and not based on an employer-employee relationship.

- A. It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and is the gross sum due and payable to the Contract Worker. The City will not withhold taxes on wages earned by the Contract Worker but will furnish the Contract Worker with a 10-99 IRS Earnings Statement by January 31st of each year. Contract Worker shall not be eligible for any benefits including workers compensation insurance, paid holidays off, accrual of annual or sick leave, participation in the City's health insurance program or the Public Employees Retirement System.

V. Termination: Either the City or the Contract Worker may terminate this Contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof, at least fourteen (14) days before the effective date of such termination.

VI. Ownership of Documents and Work Product: All documents, notes, programs, books, databases (and all applications thereof), files, reports, studies, unfinished documents and/or

other materials collected or prepared by Contract Worker shall be owned by the City. The City reserves the rights to any and all information and/or materials collected on its behalf.

- VII. Records Retention and Access to Records:** Contract Worker shall maintain, and shall make available to the City or any state agency authorized to audit the City, financial records, supporting documents, statistical records and all other records pertinent to the services performed under this Contract. These records shall be maintained for at least three (3) years; however, if any litigation or other legal action, by or on behalf of the State of Federal Government has begun that is not completed at the end of the three (3) year period, or audit findings, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.
- VIII. Modification or Amendment:** Modifications, changes or amendments to this Contract may be made upon mutual agreement of the parties, in writing and signed by the parties hereto.
- IX. Assignment:** The Contract Worker may not assign or otherwise transfer its obligations or duties under this Contract without the prior written consent of the City. Any attempt to assign or transfer the obligations and duties hereunder without such consent shall be void.
- X. Waiver:** Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power thereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Contract.
- XI. Indemnification:** Contract Worker agrees to indemnify, defend, save and hold harmless the City from and against all claims, demands, liabilities, suits, damages and costs of every kind and nature whatsoever, including court costs and attorney's fees, arising out of or caused by Contract Worker, its agents or employees in the performance of this Contract.
- XII. Governing Law and Legal Remedies:** This Contract shall be construed and governed in accordance with the laws of the State of Mississippi. The Contract Worker expressly agrees that under no circumstances shall the City be obligated to pay an attorney's fee or the cost of legal action to the Contract Worker.
- XIII. Severability:** If any term or provision of the Contract is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Contract shall not be affected thereby and each term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.
- XIV. Disputes:** Any dispute concerning a question of fact arising under this Contract shall be disposed of by good faith negotiation between a duly authorized representative of the City

and the Contract Worker. Should such negotiation fail to resolve any differences or disputes, the issue shall be submitted to litigation before a court of competent jurisdiction in Jackson County, State of Mississippi. Pending final decision of a dispute hereunder, the Contract worker shall proceed diligently with the performance of the duties and obligations of the Contract.

XV. Compliance with Laws: Contract Worker shall comply with all applicable laws, regulations policies and procedures of the United States of America or any agency thereof, the State of Mississippi or any agency thereof and any local governments or political subdivisions that may affect the performance of services under the Contract. Specifically, but not limited to, Contract Worker shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of the Contract because of race, creed, color, sex, age, national origin or disability.

XVI. Special Terms and Conditions: It is agreed and understood by each party to this Contract that there are no special terms or conditions applicable to this contractual agreement.

XVII. Notice: Any notice required or permitted to be given under this Contract shall be in writing and sent by United States Certified Mail, Return Receipt Requested, to the party to whom the notice should be given at the address set forth below:

City of Gautier: Jason D. Pugh, Human Resources Director
City of Gautier
3330 Hwy. 90
Gautier, MS 39553

Contract Worker: Alicia Johnson
4711 Bronfair Avenue
Pascagoula, MS 39581

XVIII. Entire Agreement: This Contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto.

IN WITNESS WHEREOF, this contract has been entered into and executed by the parties hereto.

Witness our signatures this the 9th day of January, 2013.

City of Gautier

Contract Worker

Samantha D. Abell, City Manager

Alicia Johnson
Alicia Johnson