

**CITY OF GAUTIER
MEMORANDUM**

To: Mayor & Council
From: Paula Yancey, City Manager
Date: August 11, 2016
Subject: Approval of a Log Cabin and Right of Entry Agreement for a Log Cabin Building to be relocated to Shepard State Park

REQUEST:

City Council authorization to approve a Log Cabin and Right of Entry Agreement from Mr. Brian Britt and Chet Smith for a historic log cabin building (approximately 3,000 square feet in area) to be relocated by the City to Shepard State Park.

BACKGROUND:

September 1, 2015 Mayor and Council accepted a donated historic log cabin building (Commonly referred to as The Wilson House) from Brian Britt to be relocated by the City to Shepard State Park as a general store and natural museum.

According to the owner Mr. Brian Britt, the structure to be conveyed (commonly referred to as The Wilson House) is a historic two story log cabin building originally constructed in the early 1920's alongside US Highway 49 at Landon, Mississippi. The structure was built by Walter Alfred Cox and became the homestead of Clark Wilson and his wife, Marjorie Welch Wilson. The 3,000 square foot cabin is made of southern yellow pine logs, and is presently located at the northeast corner of Dobson Road and Allen Road.

DISCUSSION:

The Log Cabin and Right of Entry Agreement is necessary to move this project forward and has been approved by the City Attorney for legal sufficiency. The City of Gautier proposes to disassemble the log structure as needed and relocate the building at Shepard State Park where it will serve as a Welcome Center with historic exhibits and as a General Store for day visitors and campers. FY2015 and FY2016 Tidelands funding has been approved for improvements to Shepard State Park and will be used to relocate the structure and perform the necessary rehabilitation.

RECOMMENDATION:

City Staff recommends City Council approve the Log Cabin and Right of Entry Agreement of a Log Cabin Building known as The Wilson House from Mr. Brian Britt and Chet Smith as proposed.

The City Council may:

1. Approve the Log Cabin and Right of Entry Agreement as proposed; or
2. Decline the Log Cabin and Right of Entry Agreement as proposed.

ATTACHMENT(S):

Right of Entry Agreement
Log Cabin Agreement

RIGHT OF ENTRY AGREEMENT

This Agreement is made this _____ day of _____, 2016, between the City of Gautier, a municipal corporation ("City"), and Chet Smith ("Owner").

WHEREAS, the Owner owns the real property legally described on Exhibit "A" attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, the City and /or its Contractor/agent desires to enter the Property for the purposes of removing a log cabin which has been provided to the City by Brian Britt and Chet Smith, and the Owner desires to permit the City to enter the Property for said purpose;

WHEREAS, the Owner seeks to have the log cabin removed from the Property, but understands that removal will require significant expenditure of funds;

WHEREAS, the City seeks to utilize the log cabin for City purposes at another site;

WHEREAS, the City will remove the log cabin at its own expense, thereby resulting in a benefit to the Owner;

NOW, THEREFORE, in consideration of the terms and conditions herein stated, City and Owner agree as follows:

1. Owner hereby grants the City and its agents the right of entry and _____ on the Property legally described on "Exhibit A" attached hereto.
2. This Agreement shall terminate 6 months from the date referenced above, unless the Owner approves the extension of this Agreement by written amendment.
3. The City's right to enter the Property shall include the right to use heavy equipment and a dumpster in conjunction with removal of the log cabin.
4. The City shall restore the Property to its condition, as nearly as possible, prior to any disturbance that the City is responsible for during the exercise of its rights herein. The City shall comply with all applicable governmental laws, ordinances, rules, and/or regulations in exercising the privileges granted herein.
5. This right of entry is subject to all valid rights existing in the Property as of the effective date of this Agreement. Owner reserves the right to grant others the privilege to use the Property and the parties specifically agree that this Agreement is not exclusive.
6. Any notice to be given or any documents to be delivered by any party to any other herein, shall be delivered in person or mailed by certified post and addressed to the City or Owner

at the following address:

City of Gautier:

Paula Yancey
City Manager
3330 HWY 90
Gautier, MS 39553

Owner:

Chet Smith
313 Longleaf Drive
Flowood, MS 39232

Any party may, by written notice to the other, designate a different address.

7. This is a consensual agreement, and neither entry onto the Property, nor removal of the log cabin shall be considered a taking. Rather, the mutual benefit, accepted by the parties to this Agreement, shall function as necessary contractual consideration.

CITY OF GAUTIER, MISSISSIPPI:

By: Paula Yancey
Paula Yancey, City Manager

Sworn to and subscribed before me this the 2nd day of August, 2016.

Tricia L. Thigpen
NOTARY PUBLIC



REAL PROPERTY OWNER

By: Chet Smith
Chet Smith

Sworn to and subscribed before me this the 2nd day of August, 2016.

Terry L. Adair
NOTARY PUBLIC



LOG CABIN AGREEMENT

This Agreement is made this _____ day of _____, 2016, between the City of Gautier, a municipal corporation ("City"), Brian Britt (the Log Cabin owner), and Chet Smith (the owner of certain real property legally described on Exhibit "A" attached hereto).

WHEREAS, Chet Smith owns the real property legally described on Exhibit "A" attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, Brian Britt owns the log cabin structure currently erected on the Property; and

WHEREAS, by his signature herein, Brian Britt hereby gives the City any and all interest he has to the Log Cabin; and

WHEREAS, by his signature herein, Chet Smith hereby gives the City any and all interest he has to the Log Cabin; and

WHEREAS, the City and /or its Contractor/agent desires to enter the Property for the purposes of removing a log cabin which has been provided to the City by Brian Britt and Chet Smith, and Chet Smith desires to permit the City to enter the Property for said purpose; and

WHEREAS, Brian Britt seeks to have the log cabin removed from the Property, but understands that removal will require significant expenditure of funds; and

WHEREAS, Chet Smith seeks to have the log cabin removed from the Property, but understands that removal will require significant expenditure of funds; and

WHEREAS, by a concurrently executed Right of Entry, Chet Smith has provided his consent to the City and its agents to enter the Property for the purpose of removing the Log Cabin (said Right of Entry is incorporated by reference to this agreement as if copied fully herein, and its execution and enforcement constitute material consideration under this agreement); and

WHEREAS, the City seeks to utilize the log cabin for City purposes at another site; and

WHEREAS, the City will remove the log cabin at its own expense, thereby resulting in a benefit to Brian Britt and Chet Smith; and

NOW, THEREFORE, in consideration of the terms and conditions herein stated, the City, Brian Britt, and Chet Smith agree as follows:

1. Chet Smith hereby grants the City and its agents the right of entry to the Property as provided in the Right of Entry executed in concurrence with this agreement and incorporated hereto.

2. Brian Britt represents he is the sole owner of the Log Cabin located on the Property, and hereby gives the City any and all interest he has to the Log Cabin.

3. Chet Smith hereby gives the City any and all interest he has to the Log Cabin.

4. The City hereby agrees to remove the Log Cabin from the Property as soon as practicably possible, at no monetary cost to Brian Britt or Chet Smith.

5. Brian Britt and Chet Smith agree to remove any and all personal property from the Log Cabin within ten (10) days of the execution of this agreement, and that all other items remaining in the Log Cabin after this period are to be considered by the City as waste or garbage, and discarded in an appropriate manner.

6. Brian Britt and Chet Smith represent there are no existing issues of ownership and/or outstanding judgments, liens, or disputes of rights relating to the Log Cabin. Brian Britt and Chet Smith agree to indemnify, defend, and hold harmless the City if any such issues arise once the City has taken possession of the Log Cabin.

7. Any notice to be given or any documents to be delivered by any party to any other herein, shall be delivered in person or mailed by certified post and addressed to the City or Owner at the following address:

City of Gautier:

Paula Yancey
City Manager
3330 HWY 90
Gautier, MS 3956

Log Cabin Owner:

Brian Britt
416 Billy Davis Rd
Silver Creek, MS 39663

Real Property Owner:

Chet Smith
313 Longleaf Drive
Flowood, MS 39232

Any party may, by written notice to the other, designate a different address.

8. This is a consensual agreement, and neither entry onto the Property, nor removal of the log cabin shall be considered a taking. Rather, the mutual benefit, accepted by the parties to this Agreement, shall function as necessary contractual consideration.

CITY OF GAUTIER, MISSISSIPPI:

By: Paula Yancey
Paula Yancey, City Manager

Sworn to and subscribed before me this the 11th day of August, 2016.

Tricia L. Thigpen
NOTARY PUBLIC



REAL PROPERTY AND LOG CABIN OWNER

By: Chet Smith
Chet Smith

Sworn to and subscribed before me this the 2nd day of August, 2016.

Terry L. Adair
NOTARY PUBLIC



LOG CABIN OWNER

By: Brian Britt
Brian Britt

Sworn to and subscribed before me this the 10 day of August, 2016.

Addie L. Bang
NOTARY PUBLIC

