

Kim D. Staley, Superintendent
4924 Church Street, Moss Point, MS 39563
(P) (228)475-0691 / (F) (228)474-4978
<http://www.mosspointschools.org>

Kim D. Staley, Superintendent
Moss Point School District
4924 Church Street
Moss Point, MS 39563

November 16, 2009

Valerie Rhoads, RM 230
FEMA Region IV
3003 Chamblee Tucker Road
Atlanta, GA 30341

RE: Magnolia Junior High School; PW 8074 Magnolia Junior High School, PW 8254
Magnolia Junior High School

Dear Ms. Rhoads:

The Moss Point School District requests arbitration for facility replacement funds because of inability to secure a building permit from the City of Moss Point. Issuance of a permit will preclude the city from complying with its own National Flood Insurance Program (NFIP) mandated Flood Damage Prevention Ordinance. Non-issuance of a permit prevents repair/renovation of Magnolia Junior High School.

Thank you in advance for your response to our request concerning Magnolia Junior High School. If you need any additional information, please contact David Rubenstein, Chief Financial Officer, at 228.285.2050 or dcrubenstein@mosspointschools.org or our project manager, Milady A. Howard, at 228.218.4811 or miladyhoward@gmail.com.

Sincerely,

Kim D. Staley
Superintendent
Enclosures

cc: Mike Womack, MEMA Executive Director
Civilian Board of Contract Appeals
Aneice Liddell, Moss Point Mayor
Ashley Edwards, Governor's Office of Recovery and Renewal

BACKGROUND:

On August 29, 2005, Hurricane Katrina severely damaged Moss Point School District's Magnolia Junior High School, Moss Point, MS. Magnolia Junior High served 550 students in grades 7-8; the school campus comprises two buildings: a one-story, 78,456 square foot (SF), four wing main building housing classrooms, administrative offices, gym, library and one-story, 5100 SF cafeteria.

Storm surge waters inundated the main building and reached up to 40 inches in one wing. The cafeteria suffered nearly 25 inches of storm-surge waters. Receding waters deposited mud, wet debris, salt water and raw sewage from the lift station serving the area throughout the facility.

Students were relocated to Ed Mayo Junior High School, also in Moss Point; Magnolia Junior High School has been empty since the storm.

PROJECT HISTORY:

The School District contracted for a safety inspection of the entire facility on September 28, 2005. The inspection identified a washout around a manhole cover at the south end of one hallway, but concluded that Magnolia Junior High buildings had "retained their structural integrity" in the aftermath of the storm.

During September 2005, the School District contracted with BMS-CAT for mold remediation work. Services included debris removal, water vapor removal and removal of sheetrock 18 inches above the water line. Mold remediation was complete by mid-November 2005.

Project Worksheet (PW) 4649 was first prepared January 16, 2006 and PWs 8074 and 8254 were prepared June 17, 2006 with versions submitted later. PW 4649 was first submitted as Category B, Emergency Protective Measures and totaled \$982,737. It documented contract costs incurred through November 2005 involving mold remediation efforts in the building. During March 2006, the PW was changed to Category E permanent work based on issuance of DR-1604 Disaster Specific Guidance regarding mold remediation. The work was classified and interpreted by the FEMA review specialist "as permanent work as the work performed was incidental to the permanent repairs of the facility and significant damage had already occurred to the facility."

An addendum to DR-1604 Disaster Specific Guidance was issued June 30, 2006. The addendum produced a different interpretation of the intent of the action taken by the School District and supported re-categorization of the mold remediation expenditures as Emergency Protective Measures-Category B. A revised PW was prepared to reflect that \$967,793.73 of BMS-CAT's remediation work was considered Category B.

On April 18, 2007, MEMA filed its first appeal on behalf of the Moss Point School District. The appeal asserted that the scope of work prepared by the joint FEMA/MEMA team was insufficient and did not include electrical, HVAC, mold and moisture and architect fees. The School District also requested inclusion of emergency mold remediation costs as part of the 50% rule replacement calculation.

The first appeal was denied on the basis that the 50% rule was not satisfied because mold remediation is considered Category B. FEMA notified MEMA of appeal denial July 2007 and MEMA notified the School District of the appeal denial by letter August, 2007.

The School District submitted its second appeal on September 26, 2007. The appeal was sent to FEMA by MEMA on November 29, 2007. MEMA's support of the appeal stated that funding remediation under Category B and excluding the costs from the 50% rule analysis would deter prompt remediation and encourage applicants not to act quickly to minimize damage from mold propagation. MEMA also stated that if an applicant fails to take reasonable measures to prevent spread of mold, rehabilitate and repair of additional contaminated areas, in accordance with PA policy, the work will not be eligible under any category of work. MEMA further stated that it was unfair for FEMA to revise the replacement cost after the first appeal and the source data for the revised cost was not provided and it appeared subjective and judgmental.

During March 2008 and prior to the School District receiving the results of the second appeal, the City of Moss Point adopted new flood insurance rate maps (FIRM). At the location of Magnolia Junior High School, new FIRMs revised the base flood elevation (BFE) to 10 ft mean sea level. Adoption of the new maps changed the required elevation for new construction and substantially improved projects. The City of Moss Point Flood Damage Prevention Ordinance requires floodproofing or elevation to one foot above the base flood elevation (BFE) for new construction and substantially improved facilities. The finished floor elevations at Magnolia Junior High range from 8.73 to 9.78 ft mean sea level.

The second appeal was denied for the same reasons that the first appeal was denied. FEMA provided the results to MEMA via letter during July 2008. MEMA provided results to the School District via letter during August 2008.

February 2009, Moss Point School District hired an architect to prepare plans and specifications for Magnolia Junior High School repair and renovations. A project manager for the design and construction phases of the project was also hired.

The project architect met with the City Floodplain Manager during May 2009 and again during August. During the August 2009 meeting, requirements of the Flood Damage Prevention Ordinance related to critical facilities and elevation and/or floodproofing for new construction and substantially improved facilities were used as the basis for denial of a building permit. During August and September 2009, two letters of clarification were submitted by the School District and replies were received confirming the denial of the issuance of a permit by the city. According to the project architect, elevating the facility is not feasible and dry floodproofing with a levee or berm is impractical. Both FEMA/MEMA technical team assessors and project architect agree that construction of an impermeable wall around the facility is expected to be cost prohibitive.

During September 2009, the School District requested that the City of Moss Point remove schools from its list of critical facilities. Moss Point schools were removed from the city's list of critical facilities during October 2009.

REQUEST:

Moss Point School District requests replacement funds for Magnolia Junior High School. The basis for the request is that the City of Moss Point is unable to comply with its own National Flood Insurance Program (NFIP) mandated Flood Damage Prevention Ordinance by issuing a building permit. The School District is unable to repair/renovate Magnolia Junior High School unless a building permit is issued.

The documented project timeline illustrates that we have worked diligently in a timely fashion to meet FEMA and MEMA objectives for this project. Our goal is and always has been to provide the boys and girls in the Moss Point community with a clean, safe learning environment at the earliest possible time. The FEMA improved project option was conceived to allow applicants to make improvements to facilities and our proposed repair and improvements are being used as the basis for denial of a permit.

We submit that repairing a school facility that has been flooded with highly corrosive salt water and raw sewage to depths of nearly 4 feet and is located in a floodplain with no protection from future flood waters is not the optimal solution. Due to the inability to meet NFIP and City of Moss Point criteria for a substantially improved facility, we hereby request replacement funding so we can rebuild the school above the BFE.

RECAP OF THE PROJECT HISTORY:

- August 2005: Hurricane Katrina
- September 2005: MPSD authorized emergency purchases needed to reopen school
- September 2005: MPSD contracted for structural inspection
- September 2005: MPSD hired BMS-CAT for mold remediation
- November 2005: Mold remediation work complete
- June 2006: PW 8254 (Magnolia Junior High Cafeteria) V0 written
- June 2006: PW 8074 (Magnolia Junior High) V0 written
- September 2006: Moss Point Building Official sent letter to MEMA
- March 2007: MPSD appealed percent damage ruling
- April 2007: MEMA tech team updated Oct 2006 strike team report; 50% achieved
- April 2007: MEMA sent appeal to FEMA
- July 2007: FEMA results sent to MEMA
- August 2007: MEMA provided appeal results to MPSD
- September 2007: MPSD made second appeal of percent damage to MEMA
- March 2008: City of Moss Point adopts new FIRM
- July 2008: FEMA sent second appeal ruling to MEMA
- August 2008: MEMA sent second appeal ruling results to MPSD
- February 2009: MPSD hired architect
- February 2009: MPSD hired project manager
- April 2009: Schematic design for repair complete
- May 2009: Architect met with city Building Official about floodplain
- July 2009: Design development phase complete
- August 2009: Project architect and project manager met with Building Official for plan review
- August 2009: MPSD letter to Building Official
- August 2009: Building Official letter to MPSD
- September 2009: MPSD letter to Building Official
- September 2009: Building Official letter to MPSD
- September 2009: MPSD letter to City of Moss Point to remove schools from critical facility list
- September 2009: MPSD met with FEMA/MEMA on site about dry floodproofing
- October 2009: City of Moss Point removed schools from critical facility list
- October 2009: MPSD letter to MEMA requesting replacement/relocation
- October 2009: FEMA response letter to MEMA denying additional funding and arbitration
- October 2009: MEMA response letter to MPSD
- November 2009: MPSD requests arbitration

Ms. Valerie Rhoads

November 16, 2009

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LIST OF ATTACHMENTS:

- August 12, 2009 letter from Moss Point School District to City Floodplain Manager.
- August 18, 2009 letter from City Floodplain Manager to Moss Point School District.
- September 2, 2009 letter from Moss Point School District to City Floodplain Manager.
- September 4, 2009 letter from City Floodplain Manager to Moss Point School District.
- September 24, 2009 letter from Moss Point School District to City to remove schools from list of critical facilities.
- October 8, 2009: Moss Point School District letter to MEMA requesting replacement funds.
- October 28, 2009: MEMA letter to Moss Point School District with attached FEMA letter of denial for additional replacement funds.



Kim D. Staley, Superintendent
4924 Church Street, Moss Point, MS 39563
(P) (228)475-0691 / (F) (228)474-4978
<http://www.mosspointschools.org>

David C. Rubenstein
Moss Point School District
4924 Church Street
Moss Point, MS 39563

August 12, 2009

Mr. Paul Sistrunk, Building Official
City of Moss Point
4412 Denny Avenue
Moss Point, MS 39563

RE: Magnolia Junior High School Repair/Renovation

Dear Mr. Sistrunk:

The Moss Point School District plans to repair/renovate Magnolia Jr. High School through the use of FEMA and other funding sources. The current architectural plans include repairing the existing Magnolia Jr. High School structure and adding a new clock tower and entrance area.

According to 44 CFR 206.226 (f), a facility is considered repairable when disaster damages do not exceed 50% of the cost of replacing a facility to its predisaster condition, and it is feasible to repair the facility so that it can perform the function for which it was being used as well as it did immediately prior to the disaster. Post disaster, FEMA concluded that disaster damages did not exceed 50% of the cost of replacing the facility thus declaring that it was not substantially damaged.

Construction estimates provided by our architect estimate repair and new construction costs for the project at approximately \$9.7M. By definition this is a substantial improvement.

The latest topographical survey (prepared June 2009) shows elevations of the existing facility ranging from 8.73 – 9.68 ft. msl. Considering the FEMA requirement to satisfy IBC 2003, elevations of the existing structure, the estimated cost of the repair and new construction, please provide guidance on the following:

- code requirements for repair of the existing building,
- code requirements for the new clock tower and entrance, and
- elevation and/or flood proofing requirements for entire project,
- feasibility of repairing a large critical facility located in a floodplain.

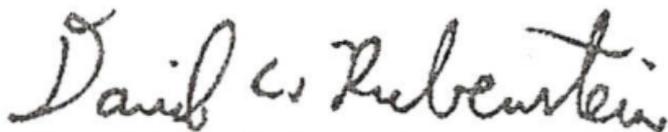
Mr. Paul Sistrunk

August 12, 2009

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Thank you in advance for your response to our request concerning Magnolia Junior High School. If you need any additional information, please contact our project manager, Milady A. Howard, at 228. 218.4811 or miladyhoward@gmail.com.

Sincerely,

A handwritten signature in cursive script that reads "David C. Rubenstein".

David C. Rubenstein
Chief Financial Officer
Enclosure

City of Moss Point

4412 Denny St. :-: Phone 475 0300
Moss Point, Mississippi 39563-2899

To: David C. Rubenstein

From: Paul Sistrunk
Building Official
City of Moss Point

Date: August 18, 2009.

Re: Magnolia Jr. High School

Dear Mr. Rubenstein,

After reviewing the documents concerning Magnolia Jr. High School it is my conclusive opinion that the structure is not repairable due to several factors. First, the structure is classified as a critical facility that is located in a Special Flood Hazard Area. Although the facility was not substantially damaged the repair to the building resulting from salt water flooding and sewage from the lift station, which is within the facility site, would be a substantial improvement. This critical facility is located in Flood zone AE-10 and requires a 1-foot freeboard; therefore any new construction shall be elevated to 4 foot above the base flood elevation. Please be advised that critical facilities in a flood zone such as this shall have more stringent requirements.

I will gladly assist you with any questions that you may have regarding this issue. Please call 228-475-0300 x 213. Or 228-217-1283.

Sincerely



Paul Sistrunk
Building Official
City of Moss Point



Kim D. Staley, Superintendent

4924 Church Street, Moss Point, MS 39563

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Lt. Col. Kim D. Staley
Moss Point School District
4924 Church Street
Moss Point, MS 39563

September 2, 2009

Mr. Paul Sistrunk, Building Official
City of Moss Point
4412 Denny Avenue
Moss Point, MS 39563

RE: Magnolia Junior High School Repair/Renovation

Dear Mr. Sistrunk:

We received your letter, dated August 18, 2009, concerning Magnolia Junior High School. The letter addresses critical facilities and elevation requirements.

Magnolia Junior High School has a concrete slab on grade foundation. This prevents elevation of the structure to meet the elevation requirement. Does this preclude issuance of a building permit?

Thank you in advance for your response to our request concerning Magnolia Junior High School. If you need any additional information, please contact our project manager, Milady A. Howard, at 228.218.4811 or miladyhoward@gmail.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kim D. Staley', written over a horizontal line.

Kim D. Staley
Superintendent



CITY OF MOSS POINT

4412 DENNY STREET • MOSS POINT, MISSISSIPPI 39563
OFFICE: 228-475-0300 • FAX: 228-475-6216

To: Lt. Col. Kim Staley

From: Paul Sistrunk
Building Official
City of Moss Point

Date: September 4, 2009

Re: Magnolia Jr. High School

Dear Mr. Staley,

Considering the current floodplain ordinance and the physical condition of Magnolia Jr. High School it is the opinion of the Building Department that this structure will be a substantial improvement if repairs are made. According to the City of Moss Point floodplain ordinance this structure is classified as a critical facility and to repair the damages would be a violation of said ordinance.

I will gladly assist you with any questions that you may have regarding this issue.
Please call 228-475-0300 x 213.

Sincerely

Paul Sistrunk
Building Official
City of Moss Point



MOSS POINT SCHOOL DISTRICT

Kim D. Staley, Superintendent

4924 Church Street, Moss Point, MS 39563

(P) (228)475-0691 / (F) (228)474-4978

<http://www.mosspointschools.org>

Kim D. Staley, Superintendent
Moss Point School District
4924 Church Street
Moss Point, MS 39563

September 24, 2009

Mayor Aneice Liddell
City of Moss Point
4412 Denny Avenue
Moss Point, MS 39563

RE: Critical Facilities

Dear Mayor Liddell:

The Moss Point School District requests all schools to be removed as critical facilities in the City of Moss Point Flood Damage Prevention Ordinance. Mississippi Emergency Management Agency (MEMA) requested removal of Magnolia Junior High School from the City of Moss Point's list of critical facilities. The school does not meet Federal Emergency Management Agency (FEMA) definition of critical facilities and we concur with removal of the school from the list.

Thank you in advance for your response to our request of removing all schools as critical facilities. If you need any additional information, please contact David Rubenstein, Chief Financial Officer, at 228.285.2050 or dcrubenstein@mosspointschools.org or our project manager, Milady A. Howard, at 228.218.4811 or miladyhoward@gmail.com.

Sincerely,

A handwritten signature in black ink that reads 'K. D. Staley'. The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Kim D. Staley
Superintendent

Cc: MEMA



Kim D. Staley, Superintendent

4924 Church Street, Moss Point, MS 39563

(P) (228)475-0691 / (F) (228)474-4978

<http://www.mosspointschools.org>

Kim D. Staley, Superintendent
Moss Point School District
4924 Church Street
Moss Point, MS 39563

October 8, 2009

Mr. Mike Womack, Governor's Authorized Representative
Mississippi Emergency Management Agency
Post Office Box 5644
Pearl, MS 39296-4501

RE: Magnolia Junior High School; PW 8074 Magnolia Junior High School, PW 8254
Magnolia Junior High School

Dear Mr. Womack:

The Moss Point School District requests additional FEMA funding for replacement of Magnolia Junior High School. Recent developments concerning more stringent design criteria and subsequent issuance of a construction permit preclude repairing the facility.

We had plans to repair/renovate Magnolia Junior High School through the use of FEMA and other funding sources. The Building Official/Floodplain Manager with the City of Moss Point recently sent us a letter (see attachments) stating that according to the City of Moss Point's Flood Damage Prevention Ordinance, the facility, considered a critical facility located in an AE Zone, will be substantially improved and requires elevation to 4 feet above the Base Flood Elevation (BFE). The facility is constructed on a concrete slab on grade foundation and elevation is not feasible.

We recently requested that the City of Moss Point remove Moss Point School District schools from its list of critical facilities. If the City removes Magnolia Junior High from the critical facility list, it will eliminate the requirement to elevate the school to 4 feet above the BFE; however, it will not remove the facility from below the BFE.

According to the city's Flood Damage Prevention Ordinance, nonresidential structures in non Coastal AE or V Zones may be flood proofed in lieu of being elevated, provided that all areas of the building below the BFE are watertight with walls substantially impermeable to the passage of water and the structural components shall have the capability to resist hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered engineer or architect shall certify that these standards are satisfied.

Mr. Mike Womack

October 8, 2009

Page 2

NFIP Section 60.3 (c)(3): "Require that all new construction and substantial improvements of non-residential structures within Zones A1 -A30, AE, and AH on the community's FIRM (i) have the lowest floor (including basement) elevated to or above the base flood level, or (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy."

FEMA publication "Dry Floodproof Your Building – April 2008" recommends dry floodproofing for buildings with concrete or solid masonry walls. Magnolia Jr. High, as constructed, includes wood frame and steel frame exterior walls with non-load bearing face brick veneer.

FEMA and the Mississippi Emergency Management Agency (MEMA) recently met with us at the Magnolia Junior High School and discussed dry floodproofing the facility. At this time, they do not consider that dry floodproofing exterior walls with impermeable polymer coatings, construction of a free standing flood wall or levee is practical or cost effective.

Attached to this request is a timeline of our actions since Hurricane Katrina. The timeline illustrates that we have worked diligently in a timely fashion to meet FEMA and MEMA objectives for this project. Drawings/plans to repair/renovate Magnolia Junior High School are 60% complete. Our goal is and always has been to provide the boys and girls in the Moss Point community with a clean, safe learning environment at the earliest possible time. Adherence to the City of Moss Point's Ordinance as is required by the NFIP has left us with very few options. The FEMA improved project option was conceived to allow applicants to make improvements to facilities and our proposed improvements are being used as the basis for denial of a permit. On one hand, the District must meet FEMA mandated standards contained in the Ordinance while funding to meet the FEMA mandated standards has been denied.

We submit that repairing a school facility that is located in a floodplain with no protection from flood waters is not the best possible solution to our problem. Due to the inability to meet NFIP and City of Moss Point criteria for a substantially improved facility, we hereby request replacement funding so we can rebuild the school above the BFE.

Thank you in advance for your response to our request concerning Magnolia Junior High School. If you need any additional information, please contact David Rubenstein, Chief Financial Officer, at 228.285.2050 or dcrubenstein@mosspointschools.org or our project manager, Milady A. Howard, at 228.218.4811 or miladyhoward@gmail.com.

Sincerely,



Kim D. Staley
Superintendent
Enclosures

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- August 2009: Building Official letter to MPSD
- September 2009: MPSD letter to Building Official
- September 2009: Building Official letter to MPSD
- September 2009: MPSD letter to City of Moss Point to remove schools from critical facility list
- September 2009: MPSD met with FEMA/MEMA on site about dry floodproofing
- October 2009: MPSD letter to MEMA requesting replacement/relocation



RECEIVED

NOV 02 2009

**STATE OF MISSISSIPPI
HALEY BARBOUR, GOVERNOR**

MISSISSIPPI EMERGENCY MANAGEMENT AGENCY

**THOMAS M. "MIKE" WOMACK
EXECUTIVE DIRECTOR**

October 28, 2009

David Rubenstein
CFO
MOSS POINT SCHOOL DISTRICT
4924 Church Street
Moss Point, MS 39563

**RE: FEMA-1604-DR-MS – MOSS POINT SCHOOL DISTRICT, FIP# 059-00EE2-00
FEMA Review of request for additional funding for Magnolia Junior High School**

Dear Mr. Rubenstein:

Enclosed is a letter from FEMA, in response to your request for additional funding for Magnolia Junior High School. Due to the denial of a second appeal on this matter, and the date which this denial was issued, the matter of additional funding for replacement of two buildings at Magnolia Junior High School is not eligible to take to arbitration. The appeal determination to deny funding these replacements is the final administrative decision. Most recently, FEMA visited the site and has determined that the District may be eligible to receive Section 406 Hazard Mitigation funding, if a proposal is deemed cost effective. When the District submits a mitigation proposal, FEMA will review and determine eligibility for funding at that time.

If you have any questions concerning this matter, please contact your assigned project officer or the Jackson County Branch Director, Anthony Virgilio, who can be reached at (228) 365-8253.

Sincerely,

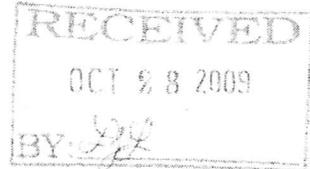
Thomas M. "Mike" Womack
Governor's Authorized Representative (GAR)



FEMA

October 23, 2009

Mr. Thomas M. "Mike" Womack
Executive Director
Mississippi Emergency Management Agency
P.O. Box 5644
Pearl, MS 39288-5644



Attention: Larry Bowman

Re: FEMA-1604-DR-MS
Moss Point School District
PA ID 059-00EE2-00
Request for Additional Funding for Magnolia Junior High School

Dear Mr. Womack:

This is in response to your letter of October 15, 2009, requesting that the Federal Emergency Management Agency (FEMA) determine whether additional federal funding may be made available to the Moss Point School District (Subgrantee) for the restoration of Magnolia Junior High School.

As you know, on July 17, 2008, FEMA denied the Subgrantee's second appeal of FEMA's denial for full replacement costs for two buildings at Magnolia Junior High School. As such, this constituted the final administrative decision on the eligibility of replacement costs for this facility in accordance with 44 CFR §206.206. Since that decision was rendered prior to February 17, 2009, the Subgrantee is not eligible to apply for arbitration on this issue in accordance with 44 CFR §206.209 II B.

In light of recent actions by the City of Moss Point's building inspector, FEMA revisited Magnolia Junior High School to evaluate potential hazard mitigation options. FEMA has determined that the Subgrantee may be eligible for Stafford Act Section 406 hazard mitigation funding, if such a proposal can be determined cost effective.

To date, the Subgrantee has not submitted a Section 406 mitigation proposal for FEMA's evaluation. Please inform the Subgrantee that it may submit such a proposal for FEMA review.

If you have any questions, please contact me at (228) - 239-9222.

Sincerely,

J. Randy Walker
Infrastructure Section Chief