



## **MAYORAL PROCLAMATION OF LOCAL EMERGENCY CITY OF JACKSON, MISSISSIPPI**

**WHEREAS**, Section 33-15-17 (d) of the Mississippi Code of 1972, as amended, authorizes the Mayor of a municipality to proclaim the existence of a local emergency as defined in Section 33-15-5 of the Mississippi Code of 1972, as amended; and

**WHEREAS**, Section 33-15-5 (h) defines an emergency as “any occurrence, or threat thereof, whether natural, technological, or man-made, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to loss of property;” and

**WHEREAS**, Section 33-15-5 (g) defines a local emergency as “the duly proclaimed existence of conditions of disaster or extreme peril to the safety of person and property within the territorial limits of a...municipality caused by such conditions as...water pollution...or other natural or man-made conditions, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the political subdivision and require the combined forces of other subdivisions or of the state to combat;” and

**WHEREAS**, the Mayor previously declared an emergency on February 17, 2022 due to the expiration of the City’s contract for the emergency collection of residential solid waste which was to expire on March 31, 2022 because the City had not accepted a permanent contract for solid waste collection services; and

**WHEREAS**, the Mayor thereafter signed an emergency agreement with Richard’s Disposal, Inc. for solid waste collection services, which the City Council did not ratify, but under which Richard’s Disposal, Inc. provided solid waste collection services until ensuing litigation resulted in a settlement agreement that compensated Richard’s Disposal, Inc. for its past services and provided for services through March 31, 2023; and

**WHEREAS**, the settlement agreement expired on March 31, 2023 without the City approving a long-term contract for solid waste collection services pursuant to the October 2021 Request for Proposals; and

**WHEREAS**, the City has been without solid waste collection services since April 1, 2023, which has resulted in garbage accumulating on the streets, which poses an imminent risk of harm to humans through a danger of infestation by rodents and insects that may carry various diseases and to the environment through air and water pollution; and

**WHEREAS**, the Mayor has unsuccessfully attempted to procure a new contract through the process required under Section 31-7-13 (r) of the Mississippi Code of 1972, as amended, by advertising a Request for Proposals; and

**WHEREAS**, since April 1, 2023, the City has had no means by which to collect garbage from residences throughout the City, which is creating throughout the City a risk of disease and causing unsanitary conditions contrary to the public health; and

**WHEREAS**, the failure to collect garbage and properly dispose of it at a permitted landfill will result in putrid, rotting food and other deleterious contaminants flowing into the City's municipal separate storm sewer system, which will cause water pollution to local creeks, streams, and waterways, including, but not limited to the Pearl River and Bogue Chitto Creek; and

**WHEREAS**, on April 7, 2023, the Mississippi Department of Environmental Quality ("MDEQ") sent the City notice that it is not meeting its obligations under state law to provide garbage collection and disposal for its residents, and has violated its Solid Waste Management Plan, which also violates water and air pollution laws due to the uncollected garbage accumulating on City streets; and

**WHEREAS**, the failure to fulfill its statutory duty to properly collect and dispose of residential solid waste will expose the City to the risk of civil penalties at the rate of up to \$25,000 per violation each day residential solid waste remains uncollected and to other legal action by the Mississippi Department of Environmental Quality; and

**WHEREAS**, on April 12, 2023, the Mayor and staff met with the Executive Director of MDEQ, and determined that based on the size of the City and the City's available resources, the only practical way for a city the size of Jackson to comply with the applicable statutes, is to comply with the existing Solid Waste Management Plan, which requires residential garbage collection through a third-party waste collection contract; and

**WHEREAS**, on April 12, 2023, MDEQ informed the City that penalties pursuant to Miss. Code Ann. Sections 17-17-29 and 49-17-43 began accumulating April 1, 2023 and have already accumulated at an estimated maximum of \$25,000 per day per violation, which is equivalent to a minimum of \$75,000 per day times 12 days ( $75,000 \times 12 = \$900,000.00$ ); and

**WHEREAS**, on April 12, 2023, the Mayor declared a local emergency in an attempt to combat the dangerous human health and environmental conditions and to protect the City from the threat of additional fines and penalties from MDEQ; and

**WHEREAS**, at a special meeting on April 12, 2023 at 1:00 p.m., the Mayor presented to the City Council a one-year emergency solid waste collection agreement with Richard's Disposal, Inc., which failed to pass on a 3-3 tie vote; and

**WHEREAS**, after the one-year emergency collection agreement failed, the vote to continue the Mayor's Emergency Proclamation failed on a 3-3 tie vote; and

**WHEREAS**, the City remained without the prospect of a means of curbside garbage collection until the Monday, April 17 court hearing in *City Council vs. Lumumba*, 23-cv-103, Hinds Chan., 1<sup>st</sup> Jud. Dist., wherein the parties entered a Final Agreed Judgment that provides for an emergency agreement for solid waste collection with Richard's Disposal, Inc.; and

**WHEREAS**, pursuant to Section 33-15-17 (b), the City "is authorized to exercise the powers vested under [Section 33-15-1, *et seq.*,] in light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations...and the expenditure of public funds..." and

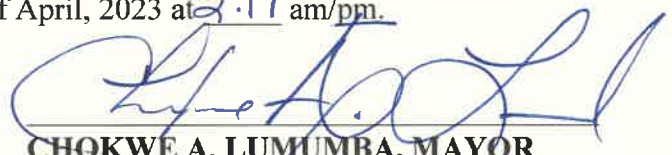
**WHEREAS**, in order to combat the dangers to the public health that have arisen due to residential garbage remaining uncollected, the Mayor intends to present to the City Council an emergency agreement with Richard's Disposal, Inc. for the collection of residential solid waste beginning on April 19, 2023, continuing until March 31, 2024 consistent with the April 17, 2023 Final Agreed Judgment.

**NOW, THEREFORE**, I, Chokwe Antar Lumumba, Mayor of the City of Jackson, Mississippi, pursuant to the authority vested in me by Section 33-15-17 (d) of the Mississippi Code of 1972, as amended, and in the public interest and for the general welfare of the City of Jackson, do hereby declare a **local emergency** for the City of Jackson.

**IT IS FURTHER ORDERED** that this Proclamation shall be (1) promptly filed with the City Clerk; (2) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; and (3) distributed to others as necessary to ensure proper implementation of this Proclamation of Local Emergency.

**IT IS FINALLY ORDERED** that this Proclamation of Local Emergency is effective immediately, until such time as the next regular meeting of the City Council or a special meeting legally called to review and approve or disapprove the need for continuing this local emergency.

**WITNESS MY HAND**, on this 18<sup>th</sup> day of April, 2023 at 3:17 am/pm.



**CHOKWE A. LUMUMBA, MAYOR  
CITY OF JACKSON, MISSISSIPPI**

**ATTEST:**



**CITY CLERK**