

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 511

Council Meeting Date: June 16, 2026

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: Richard Weaver, Chief Administrative Officer
Paula Snyder

SUMMARY EXPLANATION:

Resolution amending Resolution No. 76-26 authorizing the Mayor to approve and execute a contract with J.E. Talley Construction, Inc., for construction services for East Biloxi East-West Neighborhood Access Road Phase III Project No. CD020 for the City's Community Development Block Grant (CBDG) Program

Resolution Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract Minutes _____ Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Exhibit A: Bid
Exhibit B: Bid Tab
Exhibit C: Construction Agreement

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

| Vote: | Councilmember | Yes | No | AFR | ABST | Councilmember | Yes | No | AFR | ABST |
|-------|---------------|-------|-------|-------|-------|---------------|-------|-------|-------|-------|
| | Gray | _____ | _____ | _____ | _____ | Tisdale | _____ | _____ | _____ | _____ |
| | Marshall | _____ | _____ | _____ | _____ | Glavan | _____ | _____ | _____ | _____ |
| | Nail | _____ | _____ | _____ | _____ | Shoemaker | _____ | _____ | _____ | _____ |
| | Creel | _____ | _____ | _____ | _____ | | | | | |

ACTION TAKEN:

061626bbcon

Resolution No.

RESOLUTION AMENDING RESOLUTION NO. 76-26 AUTHORIZING THE MAYOR TO APPROVE AND EXECUTE A CONTRACT WITH J.E. TALLEY CONSTRUCTION, INC., FOR CONSTRUCTION SERVICES FOR EAST BILOXI EAST-WEST NEIGHBORHOOD ACCESS ROAD PHASE III PROJECT NO. CD020 FOR THE CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CBDG) PROGRAM

WHEREAS, by Resolution No. 76-26, the City of Biloxi (the "City") authorized entry into a Construction Agreement with J.E. Talley Construction, Inc., for construction services for East Biloxi East-West Neighborhood Access Road Phase III Project No. CD020 for the City's Community Development Block Grant (CBDG) Program;

WHEREAS, while all information stated in Resolution No 76-26 is true and correct, the exhibits attached to the resolution should be amended;

WHEREAS, the City is an "Entitlement City" under the provisions of the United States Department of Housing and Urban Development ("HUD") Community Development Block Grant Program ("CDBG");

WHEREAS, HUD requires the City to follow the procurement policies set forth in 24CRF 85;

WHEREAS, bids were received on January 14, 2026, for the East Biloxi East-West Neighborhood Access Road PH III - CDBG Project CD020;

WHEREAS, J.E. Talley Construction, Inc. ("Talley") submitted the lowest and best bid, attached hereto as Exhibit "A", in the amount of Five Hundred Twenty-One Thousand Fifty and 70/100 Dollars (\$521,050.70), as shown on the bid tabulation attached hereto as Exhibit "B";

WHEREAS, currently, funding for East Biloxi East-West Neighborhood Access Road PH III CDBG Project CD020, is available in the 2024 and 2025 CDBG Budget, Line Item 10372-6658-CD020;

WHEREAS, the bids have been reviewed and checked by Neel-Schaffer, Inc., the City's

Design Engineer, and the City's Engineering Department and no discrepancies in the low bid were noted;

WHEREAS, it is the recommendation of Christy LeBatard, Director of Engineering, that the City award Talley the Construction Agreement, attached hereto as Exhibit "C," for the bid amount of Five Hundred Twenty-One Thousand Fifty and 70/100 Dollars (\$521,050.70).

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF BILOXI, MISSISSIPPI, THAT:

SECTION ONE: The findings, conclusions, and statements of fact contained in the foregoing preamble are hereby adopted, ratified, and incorporated herein.

SECTION TWO: The Mayor's acceptance of J.E. Talley Construction, Inc.'s bid, attached hereto as Exhibit "A," in the total amount of Five Hundred Twenty-One Thousand Fifty and 70/100 Dollars (\$521,050.70), for East Biloxi East-West Neighborhood Access Road PH III - CDBG Project CD020, is hereby approved and ratified.

SECTION THREE: The Mayor's execution of the Construction Agreement, attached hereto as Exhibit "C," is approved and ratified.

SECTION FOUR: This resolution shall take effect and be in force from and after its adoption.

EXHIBIT
A

From JETalley Construction, Inc.
1771 Prospect Avenue
Pascagoula, MS 39567

To: The Mayor's Office
City Hall Building, 2nd Floor
140 Lameuse Street
Biloxi, MS 39530

SEALED BID FOR:
EAST BILOXI CONSTRUCTION OF EAST-WEST NEIGHBORHOOD
ACCESS ROAD PROJECT PHASE III AND
CDBG PROJECT NUMBER: CD020

Rec
3:42 pm
11/12/20
h

CERTIFICATE OF RESPONSIBILITY NUMBER: Mississippi 20882-MC
Responsibility Classification: Municipal and Public Works | Heavy Construction

Revised: 06/09/2017

**SECTION 905-A
CITY OF BILOXI PROJECT
CONTRACTOR PROPOSAL FORM**

**PROPOSAL: EAST BILOXI CONSTRUCTION OF EAST-WEST
NEIGHBORHOOD ACCESS ROAD PROJECT PHASE III**

CDBG PROJECT NUMBER: CD020

BID OF: JE Talley Construction, Inc.
Contractor (corp./partnership, individual)
1711 Prospect Avenue
Pascagoula, MS 39567
Address

Certificate of Responsibility No. Mississippi 20882-MC

TO: The CITY OF BILOXI
140 Lameuse Street
P.O. Box 429
Biloxi, Mississippi 39533

TO WHOM IT MAY CONCERN:

The bidder, in compliance with your invitation for bids for **EAST BILOXI CONSTRUCTION OF EAST-WEST NEIGHBORHOOD ACCESS ROAD PROJECT PHASE III, CDBG PROJECT NUMBER: CD020**, in accordance with these plans and specifications prepared by the City Engineer of the CITY OF BILOXI, having examined the Drawings, Specifications, Special Provisions, Notice(s) to Bidders, herein, and related documents, the site of the proposed work and being familiar with all the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to do all the work and furnish all labor, materials, equipment, fuel and supplies and to construct the project in the manner specified. The bidder understands that the quantities mentioned herein are approximate only and are subject to either increase or decrease, and hereby proposes to perform any increased or decreased quantities of work at the unit prices bid, in accordance with the above and at the time set forth.

Proposal Form
Section 905-A
1 of 18

Addendum No. 2

PROPOSAL FORM (Continued)

Bidder hereby agrees to commence work under this contract on or before a date to be specified in the written "Notice to Proceed" from the CITY OF BILOXI and to fully complete the project within **One Hundred Eighty-One (181)** calendar days thereafter as stipulated in the specifications. For failure to complete the work on time, the Bidder further agrees to pay liquidated damages in accordance with the Specifications, after the 181 calendar days designated for completion of the work.

Bidder acknowledges receipt of and has added to and made a part of the proposal and contract documents the following addendum (addenda):

| | |
|----------------------------|-------------------------|
| Addendum No. <u> 1 </u> | Dated <u>12.12.2025</u> |
| Addendum No. <u> 2 </u> | Dated <u>12.16.2025</u> |
| Addendum No. <u> 3 </u> | Dated <u>1.9.2026</u> |
| Addendum No. <u> </u> | Dated <u> </u> |

TOTAL ADDENDA: 3
(Must agree with total addenda issued prior to opening of bid)

The Bidder understands that the CITY reserves the right to reject any or all bids and to waive informalities in the bidding.

The Bidder agrees that his bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for receiving bids, unless the City and contractor mutually agree upon a different period.

Attached hereto is a Proposal Guaranty consisting of a certified check, cashier's check or Bid Bond in the amount as required in the Advertisement (or, by law).

The bidder agrees to provide all "force account or extra work" that may be required on the basis provided in the Specifications and to give such work their personal attention in order to see that it is economically performed. Any changes from the original contract items shall be incorporated into the project by a change order.

The Bidder further proposes to execute the attached contract agreement (Section 902) and all other Proposal Documents (Section 905) as soon as the work is awarded to them and shall begin and complete the work within the time limits provided for in the Specifications and Advertisement. The Bidder also proposes to execute the attached payment and performance bond (Section 903) or other city approved form(s) in an amount not less than one hundred percent (100%) of the total of the work, but shall also guarantee the excellence of both workmanship and materials until the work is finally accepted.

The bid security/proposal guaranty attached in the form of a certified check, cashier's check or bid bond in the sum of Twenty-six thousand fifty-two dollars and 54/100
\$ 26,052.54

5% of Bid amount

PROPOSAL FORM (Continued)

is to become the property of the CITY OF BILOXI in the event the Bidder fails to execute the contract and furnish all other required security within ten (10) days after notice of award, the amount of this check (or bid bond) will be forfeited to the CITY as liquidated damages arising out of the Bidder's failure to execute the contract as proposed. It is understood that in case the Bidder is not awarded with work, the check will be returned as provided in the Specifications.

IN TESTIMONY WHEREOF, the Bidder has hereunto affixed his legal signature on this,

14th day of January, 20 26.

Respectfully submitted,

JE Talley Construction, Inc.

Contractors

By: 

Title: Joseph E. Talley, Jr. - Vice President

Address: 1711 Prospect Avenue

Pascagoula, MS 39567

PROPOSAL FORM (Continued)

(To be filled in if a corporation)

Our corporation is chartered under the Laws of the State of Mississippi and the names, titles and business addresses of the executives are as follows:

Joseph E. Talley, Sr. - President - 1711 Prospect Avenue, Pascagoula, MS 39567

President

Address

Joseph E. Talley, Jr. - Vice President - 1711 Prospect Avenue, Pascagoula, MS 39567

Secretary

Address

Cathy McQueen - Secretary/Treasurer - 1711 Prospect Avenue, Pascagoula, MS 39567

Treasurer

Address

S E A L

The following is my (our) itemized proposal:

EAST BILOXI CONSTRUCTION OF EAST-WEST NEIGHBORHOOD ACCESS ROAD
 PROJECT PHASE III- CDBG PROJECT NUMBER: CD020

**SCHEDULE NO. 1
 OF
CONTRACT ITEMS AND UNIT PRICES**

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|--|------------------------------------|--------------------|
| 907-201-E001 | 1 LS | Clearing and Grubbing | \$ <u>9,225.00</u> per lump sum | \$ <u>9,225.00</u> |
| | | <u>Nine thousand two hundred twenty-five</u> dollars | | |
| | | <u>Zero</u> cents per lump sum | | |
| 907-202-B038 | 1 EA | Removal of Building | \$ <u>9,225.00</u> per each | \$ <u>9,225.00</u> |
| | | <u>Nine thousand two hundred twenty-five</u> dollars | | |
| | | <u>Zero</u> cents per each | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|---|------------------------------------|--------------------|
| 907-202-B080 | 25 SY | Removal of Concrete Sidewalk | \$ <u>61.50</u> per square yard | \$ <u>1,537.50</u> |
| | | <u>Sixty-one</u> dollars | | |
| | | <u>Fifty</u> cents per square yard | | |
| 907-202-B088 | 115 LF | Removal of Curb and Gutter, All Types | \$ <u>6.15</u> per linear foot | \$ <u>707.25</u> |
| | | <u>Six</u> dollars | | |
| | | <u>Fifteen</u> cents per linear foot | | |
| 907-202-B126 | 552 LF | Removal of Fence, All Types | \$ <u>6.15</u> per linear foot | \$ <u>3,394.80</u> |
| | | <u>Six</u> dollars | | |
| | | <u>Fifteen</u> cents per linear foot | | |
| 907-202-B188 | 260 SY | Removal of Pavement, All Types and Depths | \$ <u>6.15</u> per square yard | \$ <u>1,599.00</u> |
| | | <u>Six</u> dollars | | |
| | | <u>Fifteen</u> cents per square yard | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|---------------|------------------------|--|-----------------------------------|---------------------|
| 907-202-B245 | 14 EA | Removal of Trees Greater than 10" | \$ <u>492.00</u> per each | \$ <u>6,888.00</u> |
| | | <u>Four hundred ninety-two</u> dollars | | |
| | | <u>Zero</u> cents per each | | |
| 907-202-C001 | 10 CY | Removal of Obstructions, LVM | \$ <u>92.25</u> per cubic yard | \$ <u>922.50</u> |
| | | <u>Ninety-two</u> dollars | | |
| | | <u>Twenty-five</u> cents per cubic yard | | |
| 907-203-A001 | 200 CY | Unclassified Excavation FM, AH | \$ <u>24.60</u> per cubic yard | \$ <u>4,920.00</u> |
| | | <u>Twenty-four</u> dollars | | |
| | | <u>Sixty</u> cents per cubic yard | | |
| 907-203-EX012 | 1,800 CY | Borrow Excavation (AH)(FM or FME) (Class B3) | \$ <u>17.22</u> per cubic yard | \$ <u>30,996.00</u> |
| | | <u>Seventeen</u> dollars | | |
| | | <u>Twenty-two</u> cents per cubic yard | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|---------------|------------------------|--|--------------------------------|--------------------|
| 907-203-EX014 | 200 CY | Borrow Excavation (AH)(FM or FME) (Class B5) | \$ <u>17.22</u> per cubic yard | \$ <u>3,444.00</u> |
| | | <u>Seventeen</u> dollars | | |
| | | <u>Twenty-two</u> cents per cubic yard | | |
| 907-203-G001 | 850 CY | Excess Excavation, FM, AH | \$ <u>9.84</u> per cubic yard | \$ <u>8,364.00</u> |
| | | <u>Nine</u> dollars | | |
| | | <u>Eighty-four</u> cents per cubic yard | | |
| 209-A006 | 850 SY | Geotextile Stabilization, Type VI | \$ <u>6.77</u> per square yard | \$ <u>5,754.50</u> |
| | | <u>Six</u> dollars | | |
| | | <u>Seventy-seven</u> cents per square yard | | |
| 907-216-A001 | 169 SY | Solid Sodding | \$ <u>7.38</u> per square yard | \$ <u>1,247.22</u> |
| | | <u>Seven</u> dollars | | |
| | | <u>Thirty-eight</u> cents per square yard | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|--|------------------------------------|--------------------|
| 227-A001 | 0.18 AC | Hydroseeding | \$ <u>4,305.00</u> per acre | \$ <u>774.90</u> |
| | | <u>Four thousand three hundred five</u> dollars | | |
| | | <u>Zero</u> cents per acre | | |
| 230-B050 | 3 EA | Tree Planting, Live Oak, 15 Gallon | \$ <u>2,275.50</u> per each | \$ <u>6,826.50</u> |
| | | <u>Two thousand two hundred seventy-five</u> dollars | | |
| | | <u>Fifty</u> cents per each | | |
| 907-234-A001 | 490 LF | Temporary Silt Fence | \$ <u>6.15</u> per linear foot | \$ <u>3,013.50</u> |
| | | <u>Six</u> dollars | | |
| | | <u>Fifteen</u> cents per linear foot | | |
| 237-A002 | 40 LF | Wattles, 20" | \$ <u>24.60</u> per linear foot | \$ <u>984.00</u> |
| | | <u>Twenty-four</u> dollars | | |
| | | <u>Sixty</u> cents per linear foot | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|---|---------------------------------|---------------------|
| 907-304-I001 | 15 CY | Size II Stabilizer Aggregate (Gravel)(FM) | \$ <u>123.00</u> per cubic yard | \$ <u>1,845.00</u> |
| | | <u>One hundred twenty-three</u> dollars | | |
| | | <u>Zero</u> cents | | |
| | | per cubic yard | | |
| 907-304-J001 | 145 CY | "610" Limestone (FM) | \$ <u>123.00</u> per cubic yard | \$ <u>17,835.00</u> |
| | | <u>One hundred twenty-three</u> dollars | | |
| | | <u>Zero</u> cents | | |
| | | per cubic yard | | |
| 907-304-K001 | 500 CY | Granular Material, FM, Size 57 | \$ <u>92.25</u> per cubic yard | \$ <u>46,125.00</u> |
| | | <u>Ninety-two</u> dollars | | |
| | | <u>Twenty-five</u> cents | | |
| | | per cubic yard | | |
| 907-403-A002 | 70 TON | 12.5-mm mixture, MT, Asphalt Pavement | \$ <u>196.80</u> per ton | \$ <u>13,776.00</u> |
| | | <u>One hundred ninety-six</u> dollars | | |
| | | <u>Eighty</u> cents | | |
| | | per ton | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|--|---------------------------------|---------------------|
| 907-403-A005 | 135 TON | 19.0-mm mixture, MT, Asphalt Pavement | \$ <u>196.80</u> per ton | \$ <u>26,568.00</u> |
| | | <u>One hundred ninety-six</u> dollars | | |
| | | <u>Eighty</u> cents per ton | | |
| 907-403-A014 | 90 TON | 9.5-mm mixture, MT, Asphalt Pavement | \$ <u>196.80</u> per ton | \$ <u>17,712.00</u> |
| | | <u>One hundred ninety-six</u> dollars | | |
| | | <u>Eighty</u> cents per ton | | |
| 406-A002 | 205 SY | Cold Milling of Bituminous Pavements, All Depths | \$ <u>36.90</u> per square yard | \$ <u>7,564.50</u> |
| | | <u>Thirty-six</u> dollars | | |
| | | <u>Ninety</u> cents per square yard | | |
| 407-A001 | 45 GAL | Asphalt for Tack Coat | \$ <u>12.30</u> per gallon | \$ <u>553.50</u> |
| | | <u>Twelve</u> dollars | | |
| | | <u>Thirty</u> cents per gallon | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|---------------|------------------------|---|--------------------------------------|---------------------|
| 503-C010 | 154 LF | Sawcut, Full Depth | \$ <u>12.30</u> per linear foot | \$ <u>1,894.20</u> |
| | | <u>Twelve</u> dollars | | |
| | | <u>Thirty</u> cents per linear foot | | |
| 907-601-B001 | 6 CY | Class "B" Structural Concrete, Minor Structures | \$ <u>2,767.50</u> per cubic yard | \$ <u>16,605.00</u> |
| | | <u>Two thousand seven hundred sixty-seven</u> dollars | | |
| | | <u>Fifty</u> cents per cubic yard | | |
| 602-A001 | 475 LBS | Reinforcing Steel | \$ <u>6.15</u> per pound | \$ <u>2,921.25</u> |
| | | <u>Six</u> dollars | | |
| | | <u>Fifteen</u> cents per pound | | |
| 907-603-CA012 | 54 LF | 18" Reinforced Concrete Pipe, Class III, Rubber Type Gaskets | \$ <u>92.25</u> per linear foot | \$ <u>4,981.50</u> |
| | | <u>Ninety-two</u> dollars | | |
| | | <u>Twenty-five</u> cents per linear foot | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|---------------|------------------------|--|---------------------------------|--------------------|
| 907-603-CA026 | 44 LF | 24" Reinforced Concrete Pipe, Class III, Rubber Type Gaskets | \$ <u>92.25</u> per linear foot | \$ <u>4,059.00</u> |
| | | <u>Ninety-two</u> dollars | | |
| | | <u>Twenty-five</u> cents per linear foot | | |
| 907-603-CB004 | 2 EA | 24" Reinforced Concrete End Section | \$ <u>1,230.00</u> per each | \$ <u>2,460.00</u> |
| | | <u>One thousand two hundred thirty</u> dollars | | |
| | | <u>Zero</u> cents per each | | |
| 907-604-A001 | 512 LBS | Castings | \$ <u>12.30</u> per pound | \$ <u>6,297.60</u> |
| | | <u>Twelve</u> dollars | | |
| | | <u>Thirty</u> cents per pound | | |
| 907-607-F001 | 60 LF | Install New Wooden Fence | \$ <u>36.90</u> per linear foot | \$ <u>2,214.00</u> |
| | | <u>Thirty-six</u> dollars | | |
| | | <u>Ninety</u> cents per linear foot | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|---|---------------------------------|---------------------|
| 907-608-A001 | 135 SY | Concrete Sidewalk, Without Reinforcement | \$ <u>73.80</u> per square yard | \$ <u>9,963.00</u> |
| | | <u>Seventy-three</u> dollars | | |
| | | <u>Eighty</u> cents per square yard | | |
| 907-608-C001 | 10 SF | Detectable Warning Panels | \$ <u>92.25</u> per square foot | \$ <u>922.50</u> |
| | | <u>Ninety-two</u> dollars | | |
| | | <u>Twenty-five</u> cents per square foot | | |
| 907-609-D002 | 545 LF | Combination Concrete Curb and Gutter, Type 1 Modified | \$ <u>24.60</u> per linear foot | \$ <u>13,407.00</u> |
| | | <u>Twenty-four</u> dollars | | |
| | | <u>Sixty</u> cents per linear foot | | |
| 907-613-A001 | 1 LS | Adjustment of Castings, Gratings, & Utility Appurtenances | \$ <u>3,075.00</u> per lump sum | \$ <u>3,075.00</u> |
| | | <u>Three thousand seventy-five</u> dollars | | |
| | | <u>Zero</u> cents per lump sum | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|--|-------------------------------------|---------------------|
| 907-618-A001 | 1 LS | Maintenance of Traffic | \$ <u>9,225.00</u> per lump sum | \$ <u>9,225.00</u> |
| | | <u>Nine thousand two hundred twenty-five</u> dollars | | |
| | | <u>Zero</u> cents per lump sum | | |
| 618-B001 | 5 SF | Additional Construction Signs | \$ <u>123.00</u> per square foot | \$ <u>615.00</u> |
| | | <u>One hundred twenty-three</u> dollars | | |
| | | <u>Zero</u> cents per square foot | | |
| 620-A001 | 1 LS | Mobilization | \$ <u>18,450.00</u> per lump sum | \$ <u>18,450.00</u> |
| | | <u>Eighteen thousand four hundred fifty</u> dollars | | |
| | | <u>Zero</u> cents per lump sum | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|---|------------------------------------|--------------------|
| 907-626-G004 | 580 LF | Thermoplastic Detail Stripe, White | \$ <u>7.38</u> per linear foot | \$ <u>4,280.40</u> |
| | | <u>Seven</u> dollars | | |
| | | <u>Thirty-eight</u> cents per linear foot | | |
| 907-626-G005 | 480 LF | Thermoplastic Detail Stripe, Yellow | \$ <u>7.38</u> per linear foot | \$ <u>3,542.40</u> |
| | | <u>Seven</u> dollars | | |
| | | <u>Thirty-eight</u> cents per linear foot | | |
| 907-626-H010 | 156 LF | Thermoplastic Legend, White | \$ <u>7.38</u> per linear foot | \$ <u>1,151.28</u> |
| | | <u>Seven</u> dollars | | |
| | | <u>Thirty-eight</u> cents per linear foot | | |
| 630-A001 | 28 SF | Standard Roadside Signs, Sheet Aluminum, 0.080" Thickness | \$ <u>73.80</u> per square foot | \$ <u>2,066.40</u> |
| | | <u>Seventy-three</u> dollars | | |
| | | <u>Eighty</u> cents per square foot | | |

PROPOSAL FORM (Continued)

| Item No. | Total Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|--------------|------------------------|--|-------------------------------------|----------------------|
| 630-C003 | 60 LF | Steel U-Section Post, 3.0 to 3.5 lb/ft | \$ <u>18.45</u> per linear foot | \$ <u>1,107.00</u> |
| | | <u>Eighteen</u> dollars | | |
| | | <u>Forty-five</u> cents per linear foot | | |
| 907-653-B001 | 12 SF | Street Name Sign | \$ <u>123.00</u> per square foot | \$ <u>1,476.00</u> |
| | | <u>One hundred twenty-three</u> dollars | | |
| | | <u>Zero</u> cents per square foot | | |
| 907-699-A001 | 1 LS | Roadway Construction Stakes | \$ <u>9,225.00</u> per lump sum | \$ <u>9,225.00</u> |
| | | <u>Nine thousand two hundred twenty-five</u> dollars | | |
| | | <u>Zero</u> cents per lump sum | | |
| 907-809-A001 | 2,200 SF | Retaining Wall System | \$ <u>76.26</u> per square foot | \$ <u>167,772.00</u> |
| | | <u>Seventy-six</u> dollars | | |
| | | <u>Twenty-six</u> cents per square foot | | |

PROPOSAL FORM (Continued)

| Item No. | Approx. Quantity | Description with Unit Price Bid | Unit Price | Total Extension |
|----------|------------------|---------------------------------|------------------------------------|--------------------|
| 815-A001 | 25 SY | Loose Riprap, Size 100 | \$ <u>61.50</u> per square yard | \$ <u>1,537.50</u> |
| | | <u>Sixty-one</u> | dollars | |
| | | <u>Fifty</u> | cents | |
| | | per square yard | | |

BID (Schedule No. 1)
 FOR THE SUM OF Five hundred twenty-one thousand fifty and 70/100 Dollars
 (Amount in Words)

In case of any discrepancy in the total sum above, the amount in words will govern. The sum total given is subject to verifications of the correctness of extensions and amounts given.

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

JE Talley Construction, Inc.
1711 Prospect Avenue
Pascagoula, MS 39567

SURETY:

(Name, legal status and principal place of business)

Great Midwest Insurance Company
800 Gessner Road, Suite 600
Houston, TX 77024

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

City of Biloxi
P.O. Box 429
Biloxi, MS 39533

BOND AMOUNT: \$ 5%

Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

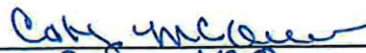
East Biloxi Construction of East-West Neighborhood Access Road Project PHASE III, CDBG Project
Number: CD020

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.


If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 14th day of January, 2026



(Witness) CATHY McQUEEN



(Witness) Blake Johnson

JE Talley Construction, Inc.

(Principal) (Seal)

By: 

(Title) JOSEPH E. Talley, Jr. - Vice President

Great Midwest Insurance Company

(Surety) (Seal)

By: 

(Title) Stephen Wesley Price, Jr. Attorney-in-Fact

MarshMcLennan Agency



POWER OF ATTORNEY

Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that GREAT MIDWEST INSURANCE COMPANY, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint: Stephen Wesley Price, Jr.

Surety Bond No: Bid Bond
Principal: JE Talley Construction, Inc.
Obligee: City of Biloxi

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of GREAT MIDWEST INSURANCE COMPANY, on the 1st day of April, 2025 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed One-Hundred Million dollars (\$100,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto.

Resolved, that the signature of the President and the seal of the Company may be affixed by electronic mail on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by electronic mail to any certificate of any such power and any such power or certificate bearing such electronic signature and seal shall be valid and binding on the Company.

IN WITNESS THEREOF, GREAT MIDWEST INSURANCE COMPANY, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 8th day of April, 2025.



GREAT MIDWEST INSURANCE COMPANY

Signature of Mark W. Haushill, President.

ACKNOWLEDGEMENT

On this 8th day of April 2025, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of GREAT MIDWEST INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



Signature of Christina Bishop, Notary Public.

CERTIFICATE

I, the undersigned, Secretary of GREAT MIDWEST INSURANCE COMPANY, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 14th Day of January 2026.



Signature of Patricia Ryan, Secretary.

WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

Revised: 06/09/2017

**SECTION 905-B
CITY OF BILOXI PROJECT
NON-COLLUSION, DEBARMENT/INELIGIBLE
CERTIFICATION
(Execute in duplicate)**

State of Mississippi
County of Harrison

I, Joseph E. Talley, Jr.,
(Name of person signing certification)

individually, and in my capacity as Vice President of
JE Talley Construction, Inc. (a corporation) do hereby certify
(Name of Firm, Partnership, or Corporation)

under penalty of perjury under the laws of the United States and the State of Mississippi that
JE Talley Construction, Inc. (a corporation), Bidder on Project
(Name of Firm, Partnership, or Corporation)

No. CD020, in Harrison County, Mississippi, has not either directly or indirectly entered into any agreement, participated in any collusion; or otherwise taken any action in restraint of free competitive bidding in connection with this contract; nor have any of its corporate officers or principal owners.

Except as noted hereafter, it is further certified that said legal entity and its corporate officers, principal owners, managers, auditors and others in a position of administering federal funds:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in Item (b) of this subsection; and

NON-COLLUSION, DEBARMENT/INELIGIBLE CERTIFICATION (Continued)

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or Local) terminated for cause or default.

Initial here " _____ " if exceptions are attached and made a part thereof. Any exceptions shall address to whom it applies, initiating agency and dates of such action.

Note: Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The bidder further certifies that the certification requirements contained in Section XI of Form FHWA 1273, will be or have been included in all subcontracts, material supply agreements, purchase orders, etc. except those procurement contracts for goods or services that are expected to be less than the Federal procurement shall purchase fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently \$25,000) which are excluded from the certification requirements.

The bidder further certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions will be completed and submitted.

The certification contained in (1) and (2) above is a material representation of fact upon which reliance is placed and a prerequisite imposed by Section 1352, Title 31, U.S. Code prior to entering into this contract. Failure to comply shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000. The bidder shall include the language of the certification in all subcontracts exceeding \$100,000 and all subcontractors shall certify and disclose accordingly.

All of the foregoing and attachments (when indicated) is true and correct.

Executed on January 14, 2026


Signature Joseph E. Talley, Jr.

Revised: 06/09/2017

**SECTION 905-B
CITY OF BILOXI PROJECT
NON-COLLUSION, DEBARMENT/INELIGIBLE
CERTIFICATION
(Execute in duplicate)**

State of Mississippi
County of Harrison

I, Joseph E. Talley, Jr.,
(Name of person signing certification)

individually, and in my capacity as Vice President of
JE Talley Construction, Inc. (a corporation) do hereby certify
(Name of Firm, Partnership, or Corporation)

under penalty of perjury under the laws of the United States and the State of Mississippi that
JE Talley Construction, Inc. (a corporation), Bidder on Project
(Name of Firm, Partnership, or Corporation)

No. CD020, in Harrison County, Mississippi, has not either directly or indirectly entered into any agreement, participated in any collusion; or otherwise taken any action in restraint of free competitive bidding in connection with this contract; nor have any of its corporate officers or principal owners.

Except as noted hereafter, it is further certified that said legal entity and its corporate officers, principal owners, managers, auditors and others in a position of administering federal funds:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in Item (b) of this subsection; and

NON-COLLUSION, DEBARMENT/INELIGIBLE CERTIFICATION (Continued)

- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or Local) terminated for cause or default.

Initial here " _____ " if exceptions are attached and made a part thereof. Any exceptions shall address to whom it applies, initiating agency and dates of such action.

Note: Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The bidder further certifies that the certification requirements contained in Section XI of Form FHWA 1273, will be or have been included in all subcontracts, material supply agreements, purchase orders, etc. except those procurement contracts for goods or services that are expected to be less than the Federal procurement shall purchase fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently \$25,000) which are excluded from the certification requirements.

The bidder further certified, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions will be completed and submitted.

The certification contained in (1) and (2) above is a material representation of fact upon which reliance is placed and a prerequisite imposed by Section 1352, Title 31, U.S. Code prior to entering into this contract. Failure to comply shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000. The bidder shall include the language of the certification in all subcontracts exceeding \$100,000 and all subcontractors shall certify and disclose accordingly.

All of the foregoing and attachments (when indicated) is true and correct.

Executed on January 14, 2026


Signature Joseph E. Talley, Jr.

905-E CERTIFIED EMPLOYMENT PLAN

Mississippi First Act Employment Plan Form for Public Works Projects*

Project Number: CDBG Project Number CD020

Bid Date: January 14, 2026

Project Title: East Biloxi Construction of East-West Neighborhood Access Road Project - Phase III

Institution / Agency: City of Biloxi

Please provide the information requested below regarding the contractor and its subcontractors.

1. List the types of jobs that will be involved in the project:

Labor, Operator, Superintendent, Pipe-Layer,
Foreman,

2. List the skill level of the jobs involved in the project:

| | |
|--------------------|--------------------------|
| Labor - skilled | Foreman - skilled |
| Labor - unskilled | Superintendent - skilled |
| Operator - skilled | Pipe-Layer - un-/skilled |

3. List the wages for each job involved in the project:

| | |
|----------------------|-----------------------|
| Labor - \$9-\$14 | Operator - \$23-\$27 |
| Foreman - \$22-\$26 | Superintendent - \$35 |
| Pipe-Layer \$18-\$21 | |

4. List the number of vacant positions that will need to be filled for each job involved in the project:

None at this time

5. Explain how low wage and unemployed individuals will be recruited for job vacancies:

Online Job Advertisement (i.e. LinkedIn, Indeed, Facebook, Glassdoor, etc) and posting at WIN Job Centers

6. Attach proof of registration with the Mississippi Department of Employment Security (MDES) for taxation purposes. Attached

I certify that the information provided above is true and accurate to the best of my knowledge.

Contractor Name and

Authorized Representative: JE Talley Construction, Inc. - Joseph E. Talley, Jr.

Title:

Vice President

Date:

January 14, 2026

**Note: This form must be submitted if Miss. Code Ann 31-5-37 (Mississippi First Act) applies to the project.*

This law requires a contractor awarded a contract for a public works project utilizing specified funding to submit an employment plan to the public agency or authority that awarded the contract and to MDES.

Please submit a copy of your employment plan to MDES via fax at 601-321-6080
or via email at recoveryjobs@mdes.ms.gov.

Signature:



To sign digitally, click and add your digital signature above. You may also print and sign this by hand to fax.

Employer Users

| User ID | First Name | Last Name | |
|----------------------|------------|-----------|----------------------|
| jetalleyconstruction | JOSEPH | TALLEY | Edit |

[Add User](#) ?

[Home](#)

Revised 07/26/2023

**SECTION 905-F
COMPLIANCE AGREEMENT WITH MISSISSIPPI JOBS FIRST BILL**

Notwithstanding the forgoing contract provisions and pursuant to the provisions of Mississippi Code of 1972, Section 31-5-37, as amended, the parties herein agree as follows:


1. Contractor agrees that upon award of the contract, it will submit its Certified Employment Plan (Section 905-E) as submitted in the bid proposal package to the Mississippi Department of Employment Security (MDES) via fax or email as described on the form.
2. In the event the Contractor has any vacant positions (as listed in its Certified Employment Plan (Section 905-E) submitted in the bid proposal package) for the work to be performed under this contract, Contractor agrees upon notification of award of the contract that it will:
 - a. Submit a Job Order to MDES to receive a list of qualified individuals for the vacant positions.
 - b. Once the job order with MDES is opened, Contractor will be required to only hire MDEQ referred job applicants for the open positions for a period of ten (10) days. The Contractor is not prohibited from hiring any MDES referrals during this 10-day period and may hire such persons immediately. The Contractor must review all job applicants referred by MDES during this 10-day period.

IN WITNESSETH WHEREOF, the parties have executed this Agreement made as of the 14th day of January, in the year 2026.

OWNER: _____

CONTRACTOR: JE Talley Construction, Inc

BY: _____

BY: 
(Corporate Seal)
Joseph E. Talley, Jr. -- Vice President

ATTEST: _____

ATTEST: 
Cathy McQueen - Secretary/Treasurer

Revised 08/25/2023

SECTION 905-G
MBE/DBE/WBE CERTIFICATION REGARDING GOOD FAITH EFFORTS

BIDDER hereby certifies that good faith efforts have been made to meet the requirements of §2 CFR 200.321 to contract with small and minority businesses and women's business enterprises and labor surplus area firms.

I, Joseph E. Talley, Jr., being the Vice President of
(Name) (Title)

JE Talley Construction, Inc that has submitted a bid for
(Company)

East Biloxi Construction of East-West Neighborhood Access Road Project - Phase III

CDBG Project Number CD020 do hereby certify that:
(Project Name & Number)

(1) I have the authority to make this affidavit for and behalf of JE Talley Construction, Inc.
(Company)

(2) The information provided in Sections 905-H and 905-I are true and accurate to the best of my belief.


Signature Joseph E. Talley

Vice President
Title

JE Talley Construction, Inc
Company

1711 Prospect Avenue
Address

Pascagoula, MS 39567
City, State, Zip

228-762-0754
Phone

jtalle1@yahoo.com
Email

January 14, 2026
Date

Revised 08/25/2023

**SECTION 905-H
MBE/DBE/WBE IDENTIFIED FIRMS AND RECORD OF SOLICITATION**

PROJECT NAME & NO.: East Biloxi Construction of East-West Neighborhood Access Road Project - Phase III
CDBG Project Number CD020

BIDDER shall identify all MBE/DBE/WBE firms solicited to provide bid/quotes whether or not they are selected to perform work under this contract. For the MBE/DBE/WBE firms listed below that are not selected to perform work under this contract, BIDDER shall include that information in Specification Section 905-I.

| MBE/DBE/WBE Firm Name: Mapco Services, LLC | | | | | | |
|---|-----------------|--|-------------|------------|-----------------|---------------|
| Pay Item No: 907-609-D002 | | Description of Work or Material: Concrete Curb and Gutter | | | | |
| Date: | Contact Method: | Details of Communication: | Quote Rec'd | Quote Used | Amount of Quote | % of Contract |
| 12.12.25 | Telephone | Request for Quote | ✓ | | \$28,700 | 5.64% |
| | | | | | | |
| | | | | | | |
| | | | | | | |

| MBE/DBE/WBE Firm Name: Mapco Services, LLC | | | | | | |
|--|-----------------|---|-------------|------------|-----------------|---------------|
| Pay Item No: 907-403-A002 907-403-A005 907-403-A014 | | Description of Work or Material: Asphalt | | | | |
| Date: | Contact Method: | Details of Communication: | Quote Rec'd | Quote Used | Amount of Quote | % of Contract |
| 12.12.25 | Telephone | Request for Quote | ✓ | | \$88,000 | 17.29% |
| | | | | | | |
| | | | | | | |
| | | | | | | |

| MBE/DBE/WBE Firm Name: | | | | | | |
|------------------------|-----------------|----------------------------------|-------------|------------|-----------------|---------------|
| Pay Item No: | | Description of Work or Material: | | | | |
| Date: | Contact Method: | Details of Communication: | Quote Rec'd | Quote Used | Amount of Quote | % of Contract |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Submit additional sheets as necessary

Revised 08/25/2023

**SECTION 905-I
MBE/DBE/WBE RECORD OF REJECTED QUOTES**

PROJECT NAME & NO.: East Biloxi Construction of East-West Neighborhood Access Road Project - Phase III
CDBG Project Number CD020

BIDDER shall complete this form if Section 905-H indicated that a quote received from an MBE/DBE/WBE firm was not used. Additional cost is not in itself sufficient reason for rejecting an MBE/DBE/WBE quote; however, BIDDERS are not expected to accept excessive or unreasonable DBE quotes.

| | | | |
|--|---|----------------------------------|---------|
| MBE/DBE/WBE Firm Name: | | Mapco Services, LLC | |
| Pay Item No: | 907-403-A002 907-403-A005 907-403-A014 | Description of Work or Material: | Asphalt |
| Amount of Quote: | | \$88,000 | |
| Reason why quote rejected (self-performing work, price, capabilities, availability, etc.): | | | |
| Price was too high | | | |
| | | | |
| | | | |

| | | | |
|--|--------------|----------------------------------|--------------------------|
| MBE/DBE/WBE Firm Name: | | Mapco Services, LLC | |
| Pay Item No: | 907-609-D002 | Description of Work or Material: | Concrete Curb and Gutter |
| Amount of Quote: | | \$28,700 | |
| Reason why quote rejected (self-performing work, price, capabilities, availability, etc.): | | | |
| Availability | | | |
| | | | |
| | | | |

| | | | |
|--|--|----------------------------------|--|
| MBE/DBE/WBE Firm Name: | | | |
| Pay Item No: | | Description of Work or Material: | |
| Amount of Quote: | | | |
| Reason why quote rejected (self-performing work, price, capabilities, availability, etc.): | | | |
| | | | |
| | | | |

Submit additional sheets as necessary

Page 1 of 1

APPENDIX E

Section 3 Plan Format Form
(Submit with Bid)

SECTION 3

SPECIAL FEDERAL CONTRACT PROVISIONS

24 CFR Part 135

NOTICE TO BIDDERS

ALL SECTION 3 DOCUMENTS MUST BE COMPLETED,
SIGNED AND RETURNED WITH BID SUBMITTAL

SECTION 3 PROJECT PLAN

(For General Contractor - Submit to the Grant Administrator; For Subcontractor - Submit to General Contractor)
(MUST BE COMPLETED, SIGNED AND RETURNED WITH BID)

Instructions

1. All contractors and subcontractors on the Project must fill out this Section 3 Project Plan form.
2. The Plan must represent the contractor's commitments to comply with Section 3 and include a description of efforts to accomplish the Plan.
3. The contractor shall implement the Plan, including reporting monthly on the status of the Plan.

Contractor or Subcontractor: JE Talley Construction, Inc

Contact Person/ Phone #: Joseph E. Talley - 228-762-0754

Contract Amount: \$ 521,050.70

Are you a Certified Section 3 Business Concern?

Yes, certification and supporting documentation were provided the Grant Administrator.

No, but will work with the Grant Administrator to attain HUD Section 3 goals to the greatest extent feasible.

Are you a Construction Contractor or a Non-construction Contractor?

Construction Contractor

Non-Construction Contractor

Section 3 Training, Employment and Subcontracting Goals

The contractor has set minimum numerical goals for the Project to ensure that, to the greatest extent feasible, economic opportunities are provided to Section 3 residents and Section 3 business concerns. The numerical goals stated above shall apply to newly created employment and/or subcontracting opportunities. The Contractor's minimum Section 3 goals are as follows:

- 25% of all labor hours must be performed by a Section 3 worker
- 5% of all labor hours must be performed by Targeted Section 3 worker

The Contractor will further ensure that, to the greatest extent feasible, its subcontractors provide training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns.

Section 3 Hiring Preference

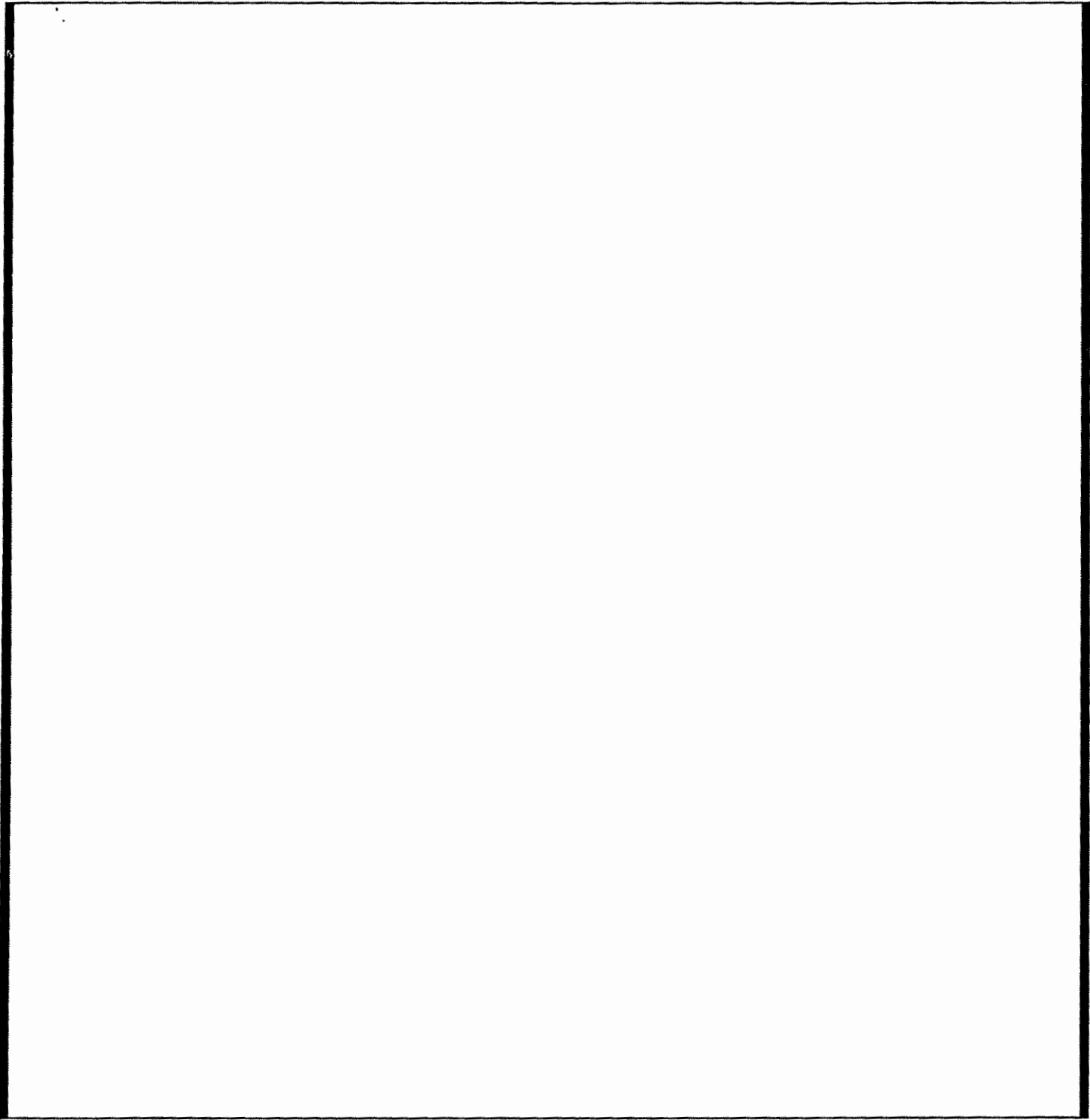
The contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority listed below. Priority consideration shall be given, where feasible, to:

- 1st: Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents).
- 2nd: Participants in HUD Youthbuild programs (category 2 residents).
- 3rd: Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority.
- 4th: Other section 3 residents.

Section 3 Preference or Contracting with Section 3 Business Concerns

Section 3 business concerns shall be given priority in contracting for work, in the following order of priority

- Section 3 business concerns that pro



Section 3 Preference for Contracting with Section 3 Business Concerns

Section 3 business concerns shall be given priority in contracting for work, in the following order of priority:

- 1st: Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and
- 2nd: Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);
- 3rd: Other section 3 business concerns.

HUD Section 3 Business Registry

Registry of firms that have self-certified their status as Section 3 Businesses, who self-certify that they meet one of the regulatory definitions of a Section 3 business will be included in a searchable online database. Section 3 residents are also encouraged to use the registry to identify businesses that may have HUD funded employment opportunities. Businesses can submit an online application for inclusion in the Section 3 registry at: www.hud.gov/Sec3Biz.

Description of Efforts to Implement Section 3 Project Plan

At a minimum, the Contractor shall attempt to recruit local, low-income residents through local advertising media, signs prominently displayed at the project site, and direct notices provided to community organizations and public or private agencies operating within the metropolitan area in which the Section 3 covered program or project is located. Additionally, the Contractor may employ multiple measures (as described in the Appendix A, attached) in order to offer training and employment opportunities to Section 3 residents.

The Contractor shall attempt to award subcontracts to Section 3 business concerns by utilizing the some of the examples as set forth in the Appendix A.

If the project generates training opportunities, then the contractor will give preference for those training opportunities to section 3 residents. Such training opportunities might include internships or apprenticeships. Contractor shall implement procedures designed to notify section 3 residents about the training.

Definitions

- a. A "Section 3 resident" is
 - A public housing resident; or
 - a low-(<80% AMI) or very low- (<50% AMI) income person residing in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended. See HUD website at www.hud.gov/section3.
- b. "Section 3 business concern" means a business concern-
 - (1) That is 51 percent or more owned by section 3 residents; or
 - (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
 - (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."
- c. A new hire means a full-time employee for a new permanent, temporary, or seasonal employment opportunities.
- d. Hiring Categories as identified by HUD:
 1. PROFESSIONALS.
Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, teachers, surveyors and kindred workers.
 2. TECHNICIANS.
Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.
 3. OFFICE AND CLERICAL.
Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, collectors (bills

and accounts), messengers and office helpers, office machine operators (including computer), shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.

4. OFFICIALS AND MANAGERS.

Occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, department managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains, mates and other officers, farm operators and managers, and kindred workers.

5. SALES.

Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks, and cashiers/checkers, and kindred workers.

6. CRAFT WORKERS (SKILLED).

Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, painters (construction and maintenance), motion picture projectionists, pattern and model makers, stationary engineers, tailors and tailoresses, arts occupations, hand painters, coaters, bakers, decorating occupations, and kindred workers.

7. OPERATIVES (SEMISKILLED).

Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, sewers and switchers, dryers, furnace workers, heaters, laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (manufactured articles), photographic process workers, truck and tractor drivers, knitting, looping, taping and weaving machine operators, welders and flame cutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, hand packers and packagers, and kindred workers.

8. LABORERS (UNSKILLED).

Workers in manual occupations which generally require no special training who perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, groundskeepers and gardeners, farmworkers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

9. SERVICE WORKERS.

Workers in both protective and non-protective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses' aides, and orderlies), barbers, car workers and cleaners, cooks, counter and fountain workers, elevator keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

Section 3 Clause

All subcontracts shall include the Section 3 Clause found at 24 CFR 135.38 (see Appendix B attached).

Section 3 Reporting/Recordkeeping by Contractor

The Contractor (and/or subcontractor) will report Section 3 activities to the Grant Administrator on a monthly basis on the provided Section 3 Status Report. The Mississippi Development Authority (MDA) or its designee shall have access to all records, reports, and other documents or items of the Contractor that are maintained to demonstrate compliance with the Section 3 regulations or that are maintained in accordance with the regulations governing the program under which Section 3 covered assistance is provided or otherwise made available to the Contractor.

As the contractor or subcontractor has the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they will direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. The same numerical goals apply to subcontractors (i.e., 30 percent of new hires, 10 percent of construction contracts, and 3 percent of non-construction contracts). In addition, the efforts to comply with Section 3 shall be reported each month as directed by MDA and any required documentation shall be submitted as set forth below. Reports in a form provided by MDA shall be required each month capturing the following data:

- The number of full-time positions generated by the Section 3 covered work.
- Of those full-time positions, the number of Section 3 employees hired to work on the Section 3 covered work
- Supporting certifications of reported Section 3 residents (and, if requested, supporting documentation)
- The number of new subcontracts generated by the Section 3 covered work.
- Supporting certifications of reported Section 3 subcontractors and, if requested, necessary supporting information (Certifications of all Section 3 resident employees and, if requested by MDA, supporting documentation).
- Outreach efforts employed to recruit Section 3 residents and/or businesses as needed.

Section 3 Compliance Monitoring of Contractors and Subcontractors

The Grant Administrator shall periodically monitor the compliance of its contractors with the Section 3 regulations. The Contractor shall share the responsibility of Section 3 with the subcontractors that are awarded contracts to which Section 3 is applicable. The Contractor, or its designee, shall periodically monitor the compliance of its subcontractors with the Section 3 regulations and maintain records of such monitoring efforts.

January 14, 2026

Date



Signature of Company Representative
Joseph E. Talley, Jr. -- Vice President

APPENDIX A

24 CFR 135.5

1. Examples of Efforts to Offer Training and Employment Opportunities to Section 3 Residents

(1) Entering into "first source" hiring agreements with organizations representing Section 3 residents.

(2) Sponsoring a HUD-certified "Step Up" employment and training program for section 3 residents.

(3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.

(4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in § 135.34) reside.

(5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.

(6) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

(7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.

(8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and, in the neighborhood, or service area in which a section 3 project is located.

(9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.

(10) Conducting job interviews at the housing development or developments where category 1 or category 2

persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

(11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.

(12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.

(13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the HA or contractor intends to fill.

(15) For an HA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and §905.201(a)(6).)

(16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.

(17) Undertaking job counseling, education and related programs in association with local educational institutions.

(18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.

(19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.

(20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

11. Examples of Efforts To Award Contracts to Section 3 Business Concerns

(1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section m of this Appendix).

(2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.

(3) Contacting business assistance agencies, minority contractors' associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.

(4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.

(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.

(6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.

(7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities. (8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities. (9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate. (10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

(11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.

(12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.

(13) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.

(14) Advertising the contracting opportunities through trade association p a p e r s and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(15) Developing a list of eligible section 3 business concerns.

(16) For HAs participating in the "Contracting with Resident-Owned Businesses" program provided under 24 CFR part 963.

(17) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.

(18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.

(19) Supporting businesses which provide economic opportunities to low-income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.

(20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.

(21) Actively supporting joint ventures with section 3 business concerns.

(22) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

This Section ill provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the "contracting party") for implementing the section 3 contracting preference for each of 719 Pl. 135, App. the competitive procurement methods authorized in 24 CFR B5.36(d).

(1) *Small Purchase Procedures.* For section 3 covered contracts aggregating no more than \$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section ill may be utilized.

(i) *Solicitation.* (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of:

- the section 3 covered contract to be awarded with sufficient specificity;
- the time within which quotations must be submitted; and
- the information that must be submitted with each quotation.

(B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) *Award.* (A) Where the section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

| | x=lesser of: |
|--|---|
| When the lowest responsive bid is less than \$100,000..... | 10% of that bid or \$9,000 |
| When the lowest responsive bid is: | |
| At least \$100,000, but less than \$200,000..... | 9% of that bid, or \$16,000 |
| At least \$200,000, but less than \$300,000..... | 8% of that bid, or \$21,000 |
| At least \$300,000, but less than \$400,000..... | 7% of that bid, or \$24,000 |
| At least \$400,000, but less than \$500,000..... | 6% of that bid, or \$25,000 |
| At least \$500,000, but less than \$1 million..... | 5% of that bid, or \$40,000 |
| At least \$1 million, but less than \$2 million..... | 4% of that bid, or \$60,000 |
| At least \$2 million, but less than \$4 million..... | 3% of that bid, or \$80,000 |
| At least \$4 million, but less than \$7 million..... | 2% of that bid, or \$105,000 |
| \$7 million or more..... | 1½% of the lowest responsive bid, with no dollar limit. |

(B) Where the section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

(2) *Procurement by sealed bids (Invitations for Bids).* Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (section 3 business concerns, and non-section 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid-

(A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and

(B) is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(3) *Procurement under the competitive proposals' method of procurement (Request/or Proposals (RFP)).* (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation facts (and their relative importance) to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor's section 3 strategy to comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concerns) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

APPEND/XS

24 CFR § 135.38 Section 3 clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 50e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

APPENDIX F

Section 3 Safe Harbor Benchmarks Form
(Submit with Bid)

City of Biloxi
CONTRACTOR CERTIFICATION
SECTION 3 SAFE HARBOR BENCHMARKS

As required for covered Section 3 infrastructure projects receiving federal financial assistance from HUD, all Contractors submitting bids to the City of Biloxi are required to certify that they will comply with the requirements of Section 3, which includes meeting safe harbor requirements and meeting or exceeding Section 3 benchmarks for the East Biloxi East-West Neighborhood Access Road Project, Phase III.

The city of Biloxi has established employment and training goals that Contractors and subcontractors should meet in order to comply with Section 3 requirements outlined in 24 CFR Part 75.19.

The safe harbor benchmark goals are as follows:

- 1) 25% or more of the total number of labor hours worked by all workers on this Section 3 project are Section 3 workers;

$$\text{Section 3 Labor Hours/Total Labor Hours} = 25\%$$

and

- 2) 5% or more of the total number of labor hours worked by all workers on this Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.

$$\text{Section 3 Labor Hours/Total Labor Hours} = 5\%$$

It is the Contractors responsibility to implement efforts to achieve Section 3 compliance. Any Contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks was not feasible. If the Contractor does not meet the safe harbor requirements, Contractor must provide evidence that they have made qualitative efforts to assist low- and very low-income persons with employment and training opportunities.

Contractors will provide evidence of outreach efforts to determine how Section 3 workers and businesses were targeted or recruited for employment, training or contracting opportunities.

Contractors will document their efforts to notify local labor unions about their Section 3 obligations. They also will provide evidence of signs posted at the job site regarding job vacancies and any subcontracting opportunities. Contractors will maintain a list of Section 3 business concerns that received contracts/subcontracts during the project period that includes name of business, address, telephone number, email address, contract amount, date awarded and services provided.

To achieve Section 3 compliance, Contractors should implement outreach efforts that notify Section 3 workers and Targeted Section 3 workers of Section 3 job opportunities that may include:

- 1) Clearly indicating Section 3 eligibility on all job postings with the following statement:
"This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in the City of Biloxi"
- 2) Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings
- 3) Working with the Project Coordinator to connect Section 3 worker and Targeted Section 3 workers in a database with opportunities and/or utilize the Section 3 Opportunity Portal to find qualified candidates
- 4) Establishing a current list of Section 3 eligible applicants
- 5) Contacting local community organizations and provide them with job postings for Section 3 eligible applicants; and
- 6) Coordinating a programmatic ad campaign that results in widespread job posting across diverse ad networks including:
 - a) Advertising job opportunities via social media, including LinkedIn and Facebook;
 - b) Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices
 - c) Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities

By signing this form, Contractors and subcontractors are certifying they will comply with the requirements of Section 3 for the East Biloxi East-West Neighborhood Access Road Project, Phase III. The Contractors and subcontractors further certify they understand and acknowledge compliance with the Section 3 requirements for the project includes meeting safe harbor requirements and meeting or exceeding Section 3 benchmarks.


Authorized Signature Joseph E. Talley, Jr. -- Vice President

January 14, 2026
DATE

APPENDIX G

Section 3 Employment Efforts and Training
Opportunities Form
(Submit with Bid)

City of Biloxi
CONTRACTOR CERTIFICATION
SECTION 3 EMPLOYMENT EFFORTS AND TRAINING OPPORTUNITIES

As required for covered Section 3 infrastructure projects receiving federal financial assistance from HUD, Contractors and Subcontractors for the City of Biloxi ' s East Biloxi East-West Neighborhood Access Road, Phase III project must certify they will make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below for the Project.

Priority for providing employment and training opportunities to Section 3 workers by the Contractors and subcontractors will be given as follows:

- 1st Priority Section 3 workers residing within the service area or the neighborhood of the project*
- 2nd Priority City of Biloxi residents participating in a YouthBuild Program
- 3rd Priority Section 3 workers residing Harrison County

By signing this form, contractors and subcontractors are certifying they will make and have made their best efforts to follow this prioritization of employment efforts and training opportunities prior to the beginning of work and after work is completed.

Please provide the following information:

Name of Contractor or Subcontractor Business: JE Talley Construction, Inc

Name of Owner/President/CEO: Joseph E. Talley, Jr. -- Vice President

Business Street Address: 1711 Prospect Avenue, Pascagoula, MS 39567
City State Zip

Phone #: 228-762-0754 Email: jtalle1@yahoo.com

Authorized Signature:  Date: January 14, 2026

*defined by HUD, **service area or the neighborhood of the project** means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of the Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.



January 14, 2026

City of Biloxi
140 Lameuse Street
Biloxi, MS 39530


Subject: Affidavit of Compliance with the Davis-Bacon Act

Project Name **East Biloxi East-West Neighborhood Access Road Project – Phase III**
Project Number **CDBG Project Number CD020**

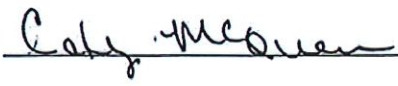
I, Joseph E. Talley, Jr., being duly sworn, depose and state as follows:

1. I am the Vice President of JE Talley Construction, Inc., located at 1711 Prospect Avenue, Pascagoula, MS 39567, and I am authorized to make this affidavit on behalf of the company.
2. JE Talley Construction, Inc. will comply with all provisions of the Davis-Bacon Act in connection with the performance of work on the **East Biloxi East-West Neighborhood Access Road – Phase III** project.
3. All laborers and mechanics employed by JE Talley Construction, Inc. or its subcontractors on this project will be paid wages at rates not less than those required by the applicable wage determination issued by the U.S. Department of Labor.
4. The payroll for all employees working on this project will be submitted as required and will be accurate and complete to the best of my knowledge.
5. JE Talley Construction, Inc. understands that any falsification of this affidavit may subject the company and its officers to penalties under federal law.

I affirm under penalty of perjury that the foregoing is true and correct.

Signature: 
Joseph E. Talley, Jr.
Vice President
JE Talley Construction, Inc.

Notary Public:
Subscribed and sworn before me this 14th day of January 2026.

Notary Signature: 
Cathy McQueen





January 14, 2026

City of Biloxi
140 Lameuse Street
Biloxi, MS 39530

RE: Compliance with the Mississippi Employment Protection Act of 2008 and the United States Illegal Immigration Reform and Immigration Responsibility Act of 1996 (E-Verify); Compliance with the Mississippi First Act

Project Name **East Biloxi East-West Neighborhood Access Road Project – Phase III**
Project Number **CDBG Project Number CD020**

The purpose of this letter is to inform you that **JE Talley Construction, Inc.** is in compliance with the Mississippi Employment Protection Act of 2008, as described in Senate Bill 2988 of the 2008 Regular Session of the Mississippi Legislature and the United States Illegal Immigration Reform and Immigration Responsibility Act of 1996. Our E-Verify registration number is **892141**.

If awarded a contract for this project, we certify that we will comply with the provisions of the Mississippi First Act (Miss. Code Ann. § 31-5-37).

Attached, for your review, is a copy of the documentation showing our companies participation in the E-Verify program, and upon request, copies of employees' certifications will be provided as they are kept in the employee's personnel file.

Our company understands that if compliance with the above-mentioned Acts is not followed, consequences may occur as contemplated in those Acts.

Should you have any questions, please do not hesitate to contact me.

Sincerely,


Joseph E. Talley, Jr.
Vice President

E-Verify

Welcome
MARY JOHNSON

Company
J E TALLEY CONSTRUCTION INC

User ID
MJOH2681

≡ MENU

Company Information

| | | |
|---|------------------------------------|---|
| Company Name J E TALLEY CONSTRUCTION INC | Company ID Number 893141 | Doing Business As (DBA) Name -- |
|---|------------------------------------|---|

DUNS Number
--

Physical Location

Address 1
1711 PROSPECT AVE

Address 2
--

City
PASCAGOULA

State
MS

Zip Code
39567

County
JACKSON

Mailing Address

Address 1
--

Address 2
--

City
--

State
--

Zip Code
--

Additional Information

Employer Identification Number
471463164

Administrator
--

Total Number of Employees
20 to 99

Parent Organization
--

Organization Designation

Employer Category
Federal Contractor with FAR
E-Verify Clause

Federal Contractor Category
State or Local Government

Employees Being Verified
Entire workforce (all new
hires and all existing
employees throughout the
entire company)

[View / Edit](#)

NAICS Code
237 - HEAVY AND CIVIL
ENGINEERING
CONSTRUCTION

Total Hiring Sites
1

[View / Edit](#)

Total Points of Contact
3

[View / Edit](#)

[View / Edit](#)

[View Original MOU Template](#)



Last Login: 06/16/2020 07:08 PM

[U.S. Department of Homeland Security](#)

[U.S. Citizenship and Immigration Services](#)

[Enable Permanent Tooltips](#)

[Accessibility](#)

[Download Viewers](#)

E-Verify Employer Search

Use the E-Verify search tool to find employers who are currently enrolled in E-Verify. Your search will display the following information:

- **Employer name** – The name the employer used when they enrolled in E-Verify. This can be the business' legal name, a trade name, or an abbreviation.
- **Doing Business As (DBA) name** – The name an employer uses publicly. The public may see the DBA, but the employer may have used another name when they enrolled in E-Verify.
- **Account Status** – indicates whether the account is currently enrolled or terminated.
- **Enrollment date** – The date the E-Verify Memorandum of Understanding is signed.
- **Termination Date** – The E-Verify Memorandum of Understanding termination date.
- **Workforce size** – Appears as long as the employer reported they have at least five employees.
- **Number of hiring sites** – The total number of locations where employers hire employees and where they complete Form I-9.
- **Hiring site locations** – The geographic location(s) of hiring sites, by state, reported by the employer.

Alaska

Hawai

E-Verify Hiring Sites
1 414,833

Search Filters

[Table Only Filter - Table data shows records by Last Updated Date in descending order and default filtered to show employers enrolled this year]

Business Name (Input Employer's legal name or DBA name)

Industry Type

Account Status Opted Into E-Verify+ State/Territory Date Enrolled (Select last 30 years for all data)
 Open No

Terminated Yes

Total Records Filtered:

E-Verify Participating Employer List

| Last Updated Date | Employer | Doing Business As Status | Account Status | Opted Into E-Verify+ Date Enrolled | Date Terminated | Workforce Size | Hiring Site Locations |
|-------------------|-----------------------------|--------------------------|----------------|------------------------------------|-----------------|----------------|-----------------------|
| 7/14/2015 | J E TALLEY CONSTRUCTION INC | | | | | | |

Parameters:

1 Frequency

USCIS updates the search tool daily at approximately 2 a.m. ET. Please email us at E-Verify@uscis.dhs.gov if you have questions about the data results.

2 Accuracy

Employers report their own data at the time they enroll in E-Verify. The accuracy and completeness of the data depend on what was submitted by employers at the time of enrollment and as reported throughout the employer's relationship with E-Verify.

3 Data

The public may not recognize business names that employers use.

Example: An employer enrolls in E-Verify using only their business name (e.g., Baristas Incorporated), but the public may only recognize their DBA name (e.g., Coffee First). If a user searches for the DBA name (Coffee First), the search tool will not return results unless the employer provided the DBA name at enrollment.

If the search tool results include the name of a business that indicate an employer has more than one hiring site or business location, it does not necessarily mean that all of the hiring sites are enrolled in E-Verify. A hiring site is the location where the employer hires employees and completes Form I-9, Employment Eligibility Verification. Employers with multiple locations may choose which of their sites participate in E-Verify.

Example: A user may search for Candy Company and find a listing for Candy Company in the search tool. That does not mean every Candy Company store

across the United States is enrolled in E-Verify.

Enrolling in E-Verify is Easy! Want to Learn More?

Keywords

Date [E-Verify employer search tool](#) [E-Verify participating employers](#)

Last Updated Date: 09/24/2024

**UNANIMOUS CONSENT TO ACTION BY THE DIRECTOR OF
JE TALLEY CONSTRUCTION, INC.
IN LIEU OF THE ORGANIZATIONAL MEETING
OF THE BOARD OF DIRECTORS**

The undersigned, constituting the sole director of JE Talley Construction, Inc. (the "Corporation"), formed under the laws of the State of Mississippi, does hereby, pursuant to the provisions of Section 70-4-8.21 of the Mississippi Business Corporation Act, unanimously consents to the following resolutions adopted in the name of and on behalf of the director of the Corporation, without the necessity of a meeting, in lieu of the organizational meeting of the Corporation:

RESOLVED: That the actions of the Incorporator of the Corporation, which have been presented to and reviewed by the sole director of the Corporation, and whereby the Incorporator filed the Articles of Incorporation with the Secretary of State and organized the Corporation, shall be, and hereby are, accepted and approved.

RESOLVED: That the Articles of Incorporation of the Corporation which were received and filed in the Office of the Secretary of State of the State of Mississippi shall be and hereby are, approved; and a copy of the articles of Incorporation shall be inserted in the minute book of the Corporation.

RESOLVED: That the bylaws, attached to this Unanimous Consent, are adopted and approved as the bylaws of the Corporation. The secretary of the Corporation is instructed to insert a copy of the bylaws in the minute book of the Corporation.

RESOLVED: That the following persons are designated to serve as officers of the Corporation until the first annual meeting of directors, or until their successors are elected and shall qualify:

| | |
|----------------------|-----------------------|
| President: | Joseph E. Talley, Sr. |
| Vice President: | Joseph E. Talley, Jr. |
| Secretary/Treasurer: | Cathy McQueen |

RESOLVED: That the president of the Corporation is authorized to select a certificate representing shares of stock of the Corporation and is directed to insert a specimen certificate in the minute book of the Corporation immediately following these minutes.

RESOLVED: That the president of the Corporation is authorized to select and provide a corporate seal, and is directed to make an impression of such corporate seal on the last page of these minutes.

WHEREAS: The Corporation has received the following offer to subscribe to the commonstock of the Corporation:

| <u>Subscriber</u> | <u>Number of Shares</u> |
|-----------------------|-------------------------|
| Joseph E. Talley, Sr. | 500 |
| Joseph E. Talley, Jr. | 500 |

WHEREAS: In consideration of the issuance to the aforesaid subscriber of shares of common stock of the Corporation, the aforesaid subscriber has offered to transfer to the Corporation certain assets which are listed opposite the subscriber's name on Schedule "A", attached to this Unanimous Consent and made a part hereof; and

WHEREAS: In the judgement of the board of directors, the consideration received or to be received for the shares to be issued is adequate.

NOW THEREFORE, BE IT RESOLVED: That the aforesaid offers of subscription for common stock made to the Corporation by the aforesaid subscriber, is fair and reasonable, and should be, and hereby is, accepted; and

RESOLVED FURTHER: That the president and the secretary of the Corporation are hereby authorized and directed to issue shares of common stock of the Corporation, fully paid and non-assessable, to the above-listed subscriber in the amount indicated upon the transfer by said subscriber to the Corporation of the assets described in Schedule "A".

RESOLVED: That Merchant & Marine Bank, Pascagoula, Mississippi (the "Bank") shall be a depository in which the funds of the Corporation shall be deposited; and

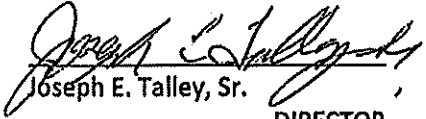
RESOLVED FURTHER: That the appropriate officers of the Corporation shall be, and hereby are, authorized to open a bank account or accounts at said Bank in the name of, and on behalf of, the Corporation, for the deposited funds belonging to the Corporation; and

RESOLVED FURTHER: That the Board of Directors hereby adopt the form resolution of said Bank (as completed), which appears in the certified form which is hereby ordered and attached as an exhibit hereto.

RESOLVED: That all of the acts of the Incorporator of the Corporation are hereby ratified, approved and confirmed.

RESOLVED: That the treasurer of the Corporation is hereby authorized and directed to pay any and all incorporation expenses incurred during the incorporation of this Corporation.

The undersigned, constituting the sole director of the Corporation, has executed this Unanimous Consent to Action as of the 1st day of August, 2014.


Joseph E. Talley, Sr.
DIRECTOR

State of Mississippi

BOARD OF CONTRACTORS

ACTIVE

**JE TALLEY CONSTRUCTION INC
1711 PROSPECT AVE
PASCAGOULA, MS 39567**

is duly registered and entitled to perform

- 1) BUILDING CONSTRUCTION
- 2) DEMOLITION
- 3) DREDGING
- 4) ELECTRICAL WORK
- 5) HEAVY CONSTRUCTION
- 6) HIGHWAY, STREET AND BRIDGE CONSTRUCTION
- 7) LANDSCAPING, GRADING, BEAUTIFICATION
- 8) MECHANICAL WORK
- 9) MUNICIPAL AND PUBLIC WORKS CONSTRUCTION
- 10) PILE DRIVING



We have hereunto set our hand and caused the Seal of the Mississippi Board of Contractors to be affixed this 3 day of Dec., 2025

CERTIFICATE OF RESPONSIBILITY

No. 20882-MC

Expires Dec. 3, 2026

Joel A. Carroll

CHAIRMAN OF THE BOARD

Engineering Department
Federal Programs
Paula Snyder



214-A Delauney Street
P. O. Box 429
Biloxi, Mississippi 39533
Office: 228.435.6269
Fax: 228.435.6179
www.biloxi.ms.us

**EXHIBIT
B**

MEMORANDUM

TO: Paula Snyder,
Federal Programs

FROM: Christy LeBatard, P.E.,
Director of Public Works and Engineering

DATE: January 27, 2026

RE: East Biloxi Construction of East-West Neighborhood Access
Road Phase III, CDBG Project No. CD020

Six bids were received on the above referenced project on January 14, 2026. Bids have been reviewed by the design consultant, Neel-Schaffer, Inc. The lowest and best bid was submitted by JE Talley Construction, Inc. in the amount of \$521, 050.70. The bid is below the amount budgeted within the Capital Projects Budget for this fiscal year. Therefore, we recommend accepting the bid of JE Talley Construction, Inc. and awarding construction contract. Attached is the bid tabulation for your records.

Please have the documents prepared for Council approval at your earliest convenience. If you have any questions or comments, please call.

/c/

enclosures

January 22, 2026



Paula Snyder
Federal Programs Manager
City of Biloxi, Mississippi
214A Delauney Street
Biloxi, MS 39530

RE: East Biloxi Construction of East-West Neighborhood Access Road Project,
Phase III
CDBG Project Number CD020
City of Biloxi
Bid Results

Dear Mrs. Snyder:

As you are aware, bids were solicited and received on January 14, 2026 for the above referenced project. The bid proposals have been examined and are summarized below.

| | |
|--------------------------------|--------------|
| JLB Contractors | \$931,345.00 |
| Bottom 2 Top Construction, LLC | \$887,946.00 |
| Southern Colonial, LLC | \$685,622.40 |
| Moran Hauling, Inc. | \$671,577.25 |
| Gulf Coast Solutions, LLC | \$562,409.00 |
| JE Talley Construction, Inc. | \$521,050.70 |
| Holliday Construction | IRREGULAR |

Based on the results of the bid tabulation, JE Talley Construction, Inc. was the lowest responsive bidder for the project. Their bid was lower than the Engineer's Estimate. All bidders hold the proper classifications from the Mississippi State Board of Contractors.

Below are the findings within each bidders' submission.

JLB Contractors:

1. Section 905-A – no words written in the bid bond statement at the bottom of page 2.
2. Section 905-A – missing page 4
3. Section 905-A – words do not match number value for pay item 907-403-A002.
4. Appendix E – no contract amount in Project Plan
5. Possible irregular unit prices noted on bid tab.

Bottom 2 Top Construction:

1. Section 905-H – no project name or number
2. Section 905-I – no project name or number
3. Appendix E – not completed
4. Appendix F – not completed

P: 228.374.1211 | F: 228.374.1216

795 Howard Avenue

Biloxi, MS 39530

www.neel-schaffer.com

engineers | planners | surveyors | environmental scientists | landscape architects



Moran Hauling, Inc.:

1. Section 905-A – no words were written in the bid bond statement at the bottom of page 2.
2. Section 905-E – No institution or agency listed under MS First Act form
3. Section 905-G – no project name or number
4. Section 905-H – no project name or number
5. Section 905-I - no project name or number
6. Possible irregular unit price noted on bid tab.

Gulf Coast Solutions:

1. Section 905-A – no amount in words or numbers in the bid bond statement at the bottom of page 2.
2. Section 905-A – words do not match number for unit price of pay item 907-304-K001.
3. Appendix E – no contract amount in Project Plan
4. Possible irregular unit price noted on bid tab.

JE Talley Construction, Inc:

No findings

Holliday Construction

1. Section 905-A – incomplete and bid considered irregular due to failure to enter a unit price in words.
2. Possible irregular unit price noted on bid tab.

The bids are attached for your review. If you have any questions or need any additional information, please feel free to contact me at (228) 374-1211.

Sincerely,



Richie Ashley, Sr., P.E.
Senior Project Manager
Neel-Schaffer, Inc.

Enclosures

Cc: file





Revised: 07/26/2023

**CONSTRUCTION AGREEMENT BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF UNIT PRICES**

THIS AGREEMENT made as of the 3rd day of February, in the year 2026, by and between the

CITY OF BILOXI, MISSISSIPPI

(hereinafter called OWNER) and

JE Talley Construction, Inc.

(hereinafter called CONTRACTOR)

WITNESSETH THAT OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE I: WORK

1.01 The intent of the Contract is to provide for the execution, construction, and completion in every detail of the work described, and to compensate the CONTRACTOR for all acceptable work performed in accordance with the provisions of the Contract. The CONTRACTOR shall furnish all labor, materials, equipment, supplies, transportation, supervision, methods and procedures necessary to complete the work in accordance with the specifications and terms of the Contract Documents.

1.02 The CONTRACTOR shall perform all work as specified or indicated in the Contract Documents for the completion of the Project generally described as follows:

**EAST BILOXI CONSTRUCTION OF EAST-WEST NEIGHBORHOOD
ACCESS ROAD PROJECT PHASE III
CDBG PROJECT NUMBER: CD020**

1.03 CONTRACTOR represents that he has familiarized himself with, and assumes full responsibility for having familiarized himself with, the nature and extent of the Contract Documents, Work locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in manner affect the performance of the Work, and represents that he/she has correlated his/her study and observations with the requirements of the Contract Documents.

1.04 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. He shall at once report in writing to Engineer any conflict, error discrepancy which he may discover; however, he shall not liable to OWNER

CONSTRUCTION AGREEMENT (Continued)

or Engineer for his failure to discover any conflict, error or discrepancy in the Drawings or Specifications.

ARTICLE II: ENGINEER

- 2.01 The project has been designed by the Neel-Schaffer, Inc. located at 795 Howard Ave., Biloxi, MS 39530 who is known as the DESIGN ENGINEER throughout the specifications. The City Engineer for the City of Biloxi Engineering Division will act as ENGINEER in connection with completion of the Project in accordance with the Contract Documents. It is understood that the City Engineer may designate authority to any member of his staff, as he deems necessary.
- 2.02 The Engineer has the authority to make decisions on all questions that may arise as to the quality and acceptability of materials, the Work, and progress of the Work; all questions that may arise as to the interpretation of plans and specifications; and all questions as to the fulfillment of the Contract.
- 2.03 The Engineer has the right, but not the obligation, to suspend work wholly or in part and to withhold payments because of the CONTRACTOR'S failure to correct conditions unsafe for workmen or the general public, for failure to carry out provisions of the Contract Documents, or for failures to carry out orders. The Engineer may also suspend Work for periods deemed necessary due to unsuitable weather conditions, for any conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the Engineer to be in the public interest. The OWNER shall not be held liable for any conditions that it is not made aware of, and there is no duty on the part of the OWNER to inspect for said unsafe and/or unsuitable conditions. The duty to ensure that the conditions are safe to workmen and the public remains at all times on the CONTRACTOR, and shall not be altered by any course of conduct and/or action or inaction of the OWNER.
- 2.04 The Engineer will have the authority to enforce and make effective all decisions and orders relating to the Contract Documents.

ARTICLE III: CONTRACT TIME

- 3.01 The work herein described shall be completed within the calendar time stated in the specifications after the date of the Contract Time commences, also known as the Notice to Proceed Date. This date is established by the date on the Notice to Proceed order.
- 3.02 The CONTRACTOR shall provide sufficient materials, equipment and labor to guarantee the completion of the project in accordance with the plans and specifications within the Contract Time.
- 3.03 On Calendar Day Contracts, an extension of Contract Time may be granted for unforeseen utility delays, abnormal delays caused solely by the OWNER or other governmental

CONSTRUCTION AGREEMENT (Continued)

authorities, or unforeseeable disastrous phenomena of nature of the magnitude of earthquakes, hurricanes, named tropical storms, tornadoes, or flooded essential work areas that are deemed to unavoidably prevent prosecuting the work.

- 3.04 The span of time allowed in the Contract as awarded is based on the quantities used for comparison of bids. If satisfactory fulfillment of the Contract requires performance of work in greater quantities than those set forth in the proposal, the time allowed for completion shall be increased by Calendar Days in the same ratio that the cost of such added work increases the total value of the original Contract. This is exclusive of the cost of work altered by an approved Change Order for which a time adjustment has already been made.

ARTICLE IV: CONTRACT PRICE

- 4.01 CONTRACTOR submitted the approved bid for the performance of the work described in the Contract Documents in the total sum of:

Five hundred twenty-one thousand fifty and 70/100 (\$ 521,050.70)

- 4.02 The total sum above is based on estimated quantities for each pay item. The actual payment to the CONTRACTOR shall be subject to the actual quantity of approved work performed and the terms and conditions of this Contract. The total Contract price shall not exceed the amount of the approved bid unless otherwise approved by the OWNER.

ARTICLE V: CONTRACT DOCUMENTS

- 5.01 The Contract Documents, which comprise the Contract between the OWNER and CONTRACTOR, consists of the following documents, which documents are made a part of this agreement as fully as if disclosed and written at length and made a part thereof:

- (a) This agreement (Pages 1 through 28, inclusive),
- (b) Exhibits to this Agreement,
- (c) CONTRACTOR'S Proposal and Bonds,
- (d) Notice of Award,
- (e) Advertisement, Section 901,
- (f) Testing and Submittal Requirements,
- (g) Notice to Bidders in the Specifications,
- (h) Technical Specifications,

CONSTRUCTION AGREEMENT (Continued)

- (i) Addendum or Exhibits to the Technical Specifications,
- (j) Special Provisions and Regulations for Construction Projects as Stipulated by U.S. HUD CDBG Entitlement Program
- (k) Any Addenda to the Contract Documents.
- (l) Any modifications, including Change Orders, duly delivered after execution of this Agreement,
- (m) Notice to Proceed.

5.02 The Contract Documents constitute the entire agreement between OWNER and CONTRACTOR and may be only altered, amended or repealed by a duly executed written instrument.

ARTICLE VI: SUBCONTRACTORS

- 6.01 Neither the OWNER nor CONTRACTOR shall, without the prior written consent of the other, assign or sublet in whole or in part his interest under any of the Contract Documents; and, specifically, CONTRACTOR shall not assign any moneys due or to become due without prior written consent of OWNER.
- 6.02 CONTRACTOR agrees to procure SUBCONTRACTORS in a fair and nondiscriminatory manner.
- 6.03 CONTRACTOR shall ensure that each SUBCONTRACT includes all the provisions of this Contract. CONTRACTOR is responsible for monitoring all SUBCONTRACTORS to ensure compliance with the provisions contained herein.
- 6.04 CONTRACTOR shall not enter into any SUBCONTRACT without the written approval of OWNER.
- 6.05 Subcontracting does not release CONTRACTOR of bond and Contract liability and shall not be construed to imply that a Contract exists between the OWNER and a third party.

ARTICLE VII: CONTROL OF WORK

- 7.01 CONTRACTOR shall supervise and direct the work efficiently and with his best skill and attention. He shall be responsible to see that the finished work complies accurately with the Contract Documents.
- 7.02 CONTRACTOR shall keep on the work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and Engineer except under extraordinary circumstances. The superintendent will be CONTRACTOR'S representative at the site and shall have authority to act on behalf of

CONSTRUCTION AGREEMENT (Continued)

CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR. The CONTRACTOR shall furnish in writing the name of his resident superintendent and telephone numbers where he may be reached in the event of emergencies.

- 7.03 CONTRACTOR shall keep one record copy of all Specifications, Drawings, Addenda, Modifications and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to Engineer and shall be delivered to him for OWNER upon completion of the Project.
- 7.04 CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work, and at the completion of the Work he shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for use. CONTRACTOR shall restore to their original condition those portions of the site not designated for alteration.
- 7.05 In case of the suspension of Work from any cause whatever, CONTRACTOR shall be responsible for all material, shall properly store them, if necessary, and shall provide suitable drainage of the area and erect temporary structures where necessary.
- 7.06 CONTRACTOR shall confine his equipment, the storage of materials and equipment and the operations of his workmen to areas permitted by law, ordinances, permits or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment. CONTRACTOR shall not enter or occupy with men, tools, or material any private ground without the consent of the owner of said private property.

ARTICLE VIII: CONTROL OF MATERIALS

- 8.01 CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliance, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.
- 8.02 All materials and equipment shall be new, except as otherwise provided in the Contract Documents. If required by Engineer, CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- 8.03 All materials and equipment shall be applied, installed, connected, erected, raised, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract Documents.
- 8.04 For all manufactured articles, units, components, or materials incorporated in the work completed under this Contract, CONTRACTOR shall furnish the manufacturer's

CONSTRUCTION AGREEMENT (Continued)

warranties, guarantees, instruction sheets, and technical specification sheets before final acceptance of work.

- 8.05 All materials not conforming to the requirements of the specifications at the time they are incorporated in the Work shall be rejected and removed immediately unless otherwise instructed by the Engineer.
- 8.06 In compliance with the laws of the State of Mississippi, in choosing materials for the project, the successful bidder shall be required to give preference to materials grown, produced, prepared, made or manufactured within the State of Mississippi. The foregoing notwithstanding, no preference shall be given to materials grown, produced, prepared, made or manufactured in the State of Mississippi when other materials of like quality produced outside the State of Mississippi may be purchased or secured at less cost, or any other materials of better quality produced outside the State of Mississippi can be secured at a reasonable cost.
- 8.07 Any materials to be used as a substitute to any material specified in the Contract shall be approved by the Engineer, or his authorized representative, prior to use. The CONTRACTOR shall be responsible for submitting all information needed by the Engineer to show all properties, characteristics, test reports, etc. to make an informed decision as to the compliance of the proposed material with the Contract.
- 8.08 CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the law of the place where the Work is to be performed.
- 8.09 CONTRACTOR warrants and guarantees that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents and of any inspections, tests or approvals referred to in the Technical Specifications.
- 8.10 All tests, inspections and submittals shall be submitted to the OWNER in accordance with the Technical Specifications.

ARTICLE IX: PROGRESS SCHEDULE

- 9.01 The CONTRACTOR shall submit a progress schedule to the City Engineer or his authorized representative for his approval no later than three (3) working days after the Notice to Proceed date. The schedule will be in the form of a bar graph indicating the controlling phases of work, the bid sheet sequence numbers of all pay items in each phase, and the beginning and the ending time for each phase. At least one phase of work will be shown to begin no later than the date for beginning of Contract Time, and at least one phase of work will be shown to be in progress until all work is scheduled to be complete. The schedule shall indicate the sequence and interdependency of all Work activities.

CONSTRUCTION AGREEMENT (Continued)

- 9.02 The CONTRACTOR'S progress schedule shall reflect a realistic rate of prosecution with all work to be completed within the specified Contract Time. In preparation of his progress schedule, the CONTRACTOR shall take into consideration all controlling factors and specified limitations. The schedule shall show work broken down by street name (if applicable) and then by station number so that a logical progress of work can be followed.
- 9.03 An approved progress schedule shall be in effect until the date on which a revised schedule is approved. The approved progress schedule will be the basis for establishing major construction operations, Contract Time assessment, and for checking the progress of the work.
- 9.04 Whenever it becomes apparent from the current monthly updated Schedule that the Contract completion date will not be met, the CONTRACTOR agrees that they will take some or all of the following actions. However, these actions must first be reviewed and approved by the OWNER. These actions will be taken by the CONTRACTOR at NO additional cost to the OWNER.
- (a) Increase construction manpower to eliminate the backlog of work.
 - (b) Increase the number of hours worked per day and/or shift, increase the number of days worked per week, etc. However, this shall not be construed as permitting the CONTRACTOR to violate the OWNER'S work hour restrictions per Ordinance.
 - (c) Reschedule activities to expedite the work and eliminate the backlog of work.
- 9.05 Any requests for an adjustment in Contract Time shall be submitted by the CONTRACTOR in writing and shall include a Time Impact Analysis. Each Time Impact Analysis shall provide information justifying the request and stating the extent of the adjustment requested for each specific change or alleged delay. This analysis shall be done at no additional cost to the OWNER.

ARTICLE X: CHANGES TO WORK

- 10.01 OWNER may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, CONTRACTOR shall proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price, or an extension or shortening of the Contract Time, an equitable adjustment will be made. Change Orders may not alter unit prices established under the Contract Documents.
- 10.02 Engineer may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. If CONTRACTOR believes that any minor change or alteration authorized by Engineer entitles him to an increase in the Contract Price, CONTRACTOR may make a claim as provided by law.

CONSTRUCTION AGREEMENT (Continued)

- 10.03 Additional Work performed by CONTRACTOR without authorization of a Change Order will not entitle him to an increase in the Contract Price or an extension of the Contract Time.
- 10.04 CONTRACTOR will provide immediate notification to the Engineer upon discovering a condition that may require a change to the Contract Documents. The notification will include (1) a description of the condition, including the time and date it was identified; (2) an explanation of why the condition represents a change to the Contract Documents; and (3) a statement of all changes considered necessary to the Contract Price and Contract Time.

ARTICLE XI: ACCEPTANCE OF WORK

- 11.01 OWNER will monitor the performance of CONTRACTOR against goals and performance standards required herein. Substandard performance as determined by OWNER will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by CONTRACTOR within a reasonable period of time as determined by the OWNER after being notified by OWNER, Contract suspension or termination procedures will be initiated.
- 11.02 All materials and parts or detail of the work are subject to inspection by the Engineer. The Engineer shall be allowed access to all of the Work and shall be furnished with such information and assistance by the CONTRACTOR as necessary to make a complete and detailed inspection.
- 11.03 Unacceptable work, whether the result of poor workmanship, defective materials, damage through carelessness or any other cause, found prior to final acceptance of work shall be removed and replaced in an acceptable manner at no additional cost to the OWNER.
- 11.04 Engineer will have authority to disapprove or reject Work which is "defective," which term is hereinafter used to describe Work that is unsatisfactory, faulty, or defective, or does not conform to the requirements of the Contract Documents, or does not meet the requirements of any inspection, test or approval, or has been damaged prior to approval of final payment. Engineer will also have authority to require a special inspection or testing of the Work, whether or not the Work is fabricated, installed or completed.
- 11.05 Until the acceptance of the work by Engineer, as evidenced in writing, it shall be under the charge and care of CONTRACTOR. He shall take every necessary precaution against damages to any party thereof by the action of the elements or from any other cause whether arising from the execution or from the non-execution of the work. Before final acceptance, CONTRACTOR shall at his expense rebuild, restore, repair and make good at his own expense all injuries or damages to any portion of the Work occasioned by any of the above causes.

ARTICLE XII: LIQUIDATED DAMAGES

CONSTRUCTION AGREEMENT (Continued)

12.01 If the CONTRACTOR fails to complete the Work within the Contract Time and all approved Change Orders, a deduction calculated from the daily charges listed in the below schedule will be made from money due to the CONTRACTOR, not as penalty but as liquidated damages. The daily charges set out in the schedule of liquidated damages are based on an approximated average cost to the OWNER for maintaining engineers, inspectors and other employees. The CONTRACTOR and the CONTRACTOR'S Sureties shall be liable for all liquidated damages in excess of money due the CONTRACTOR.

| Original Contract Amount | | Daily Charge Per Calendar Day |
|--------------------------|------------------|-------------------------------|
| From More Than | To and Including | |
| \$ 0.00 | \$100,000.00 | \$150.00 |
| \$100,000.00 | \$500,000.00 | \$360.00 |
| \$500,000.00 | \$1,000,000.00 | \$540.00 |
| \$1,000,000.00 | \$5,000,000.00 | \$830.00 |
| \$5,000,000.00 | \$10,000,000.00 | \$1,200.00 |
| \$10,000,000.00 | \$20,000,000.00 | \$1,800.00 |
| \$20,000,000.00 | ----- | \$3,500.00 |

ARTICLE XIII: PERMITS

13.01 CONTRACTOR is responsible for any permits, and is required to comply with all codes, ordinances, rules, regulations, orders and other legal requirements of public authorities which bear on performance of work.

ARTICLE XIV: BONDS

14.01 Within ten (10) days of receiving the Notice of Award, the CONTRACTOR shall execute and deliver to the OWNER a performance bond or bonds in a sum equal to the full Contract Price. The form of the bond(s) shall be that provided by the OWNER. The bond shall be negotiated for, procured from and the premium paid to a qualified surety agent as listed below. The bonds may be made by any surety company which is authorized to do business in the State of Mississippi and listed on the United States Treasury Department's list of acceptable sureties, or such bonds may be guaranteed by a personal surety as otherwise provided for in the Mississippi Code of 1972 as referenced below. The bond shall be signed or countersigned by a qualified surety agent and also bear the signature of an "attorney-in-

CONSTRUCTION AGREEMENT (Continued)

- fact” of the surety. (Reference is made to Section 31-5-51 et seq. of the Mississippi Code of 1972, Annotated, and other State statutes applicable thereto).
- 14.02 Except as otherwise provided herein, for a personal surety, no surety or surety company shall be allowed to guarantee or write bonds or construction, alteration or repair of a public building or for public work, unless that surety is listed on the United States Treasury Department’s list of acceptable sureties.
- 14.03 If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located, or is revoked, CONTRACTOR shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to OWNER.
- 14.04 Failure of the CONTRACTOR to provide an acceptable bond and all fully executed Contract Documents, within twenty (20) days of the mailing of the Notice of Award shall be just cause for the cancellation of the Contract. In the event the Contract is cancelled due to the failure of the CONTRACTOR to timely provide the bond and all fully executed Contract Documents, the CONTRACTOR’S proposal guaranty shall be forfeited. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised at the discretion of the OWNER.
- 14.05 It is CONTRACTOR’S responsibility to notify his Surety of any changes affecting the general scope of the Work. CONTRACTOR shall furnish proof of such adjustment to OWNER.

ARTICLE XV: LEGAL RELATIONS

- 15.01 CONTRACTOR represents that he has made himself familiar with all state laws and local ordinances and regulations which in any manner affect those engaged or employed in the Work or the material or equipment used in the proposed construction or which in any way affect the conduct of the work and no plea of misunderstanding will be considered on account of ignorance thereof.
- 15.02 The CONTRACTOR shall procure all permits, and licenses, pay all charges, fees and taxes and issue all notices necessary and incidental to the due and lawful prosecution of the work.
- 15.03 CONTRACTOR agrees to comply with the Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.
- 15.04 CONTRACTOR and his SUBCONTRACTORS shall abide by the requirements of 41 CFR 60-1.4(b). These regulations prohibit discrimination against all individuals based on their

CONSTRUCTION AGREEMENT (Continued)

race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing or disclosing compensation. Moreover, these regulations require that covered CONTRACTORS and SUBCONTRACTORS take affirmation action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

15.05 CONTRACTOR agrees to comply with the requirements of the Secretary of Labor in accordance with:

- (a) the Davis-Bacon Act as amended (40 USC 3141 et seq.; 29 CFR Part 5, Subpart A)
- (b) the provisions of Contract Work Hours and Safety Standards Act (40 USC 3701 et seq.; 29 CFR Part 5),
- (c) the Copeland "Anti-Kickback" Act (40 USC 3145 et seq.; 29 CFR part 3)

and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Contract. CONTRACTOR shall maintain documentation, which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to OWNER for review upon request.

15.06 CONTRACTOR agrees to comply with the requirement of Miss. Code Ann. §31-5-27, the "Mississippi First Act." CONTRACTOR shall maintain documentation, which demonstrates compliance with the Mississippi First Act. Such documentation shall be made available to OWNER for review upon request.

15.07 Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions, which are unsanitary, hazardous or dangerous to the participants' health or safety.

15.08 Participants employed or trained for inherently dangerous occupations, shall be assigned to work in accordance with reasonable safety practices.

15.09 CONTRACTOR agrees to comply with the following regulations insofar as they apply to the performance of this Contract (applies to Contracts or sub-Contracts in excess of \$100,000):

- (a) Clean Air Act, 42 U.S.C., 7401, et seq. as amended
- (b) Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended 1368 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

CONSTRUCTION AGREEMENT (Continued)

- (c) Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 15, as amended.
- (d) 37 CFR Part 401, Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.
- (e) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)
- (f) Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
- (g) HUD – Economic Opportunities for Low- and Very Low-Income Persons 24 CFR 75.19 as stated below:

- (i) Employment and Training.

To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or non-metropolitan county) in which the project is located.

Where feasible, priority for opportunities and training described in paragraph (g)(i) of this section should be given to:

- i. Section 3 workers residing within the service area or the neighborhood of the project, and
- ii. Participants in YouthBuild programs.

- (ii) Contracting

To the greatest extent feasible, and consistent with existing Federal, state and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or non-metropolitan county) in which the project is located.

Where feasible, priority for opportunities and training described in paragraph (g)(ii) of this section should be given to:

CONSTRUCTION AGREEMENT (Continued)

- i. Section 3 business concerns the provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
- ii. Participants in YouthBuild programs.

ARTICLE XVI: PUBLIC CONVENIENCE AND SAFETY

- 16.01 The CONTRACTOR shall be responsible for the preservation of public and private property. The CONTRACTOR shall be responsible for all damage or injury to public or private property resulting from any act, omission, neglect, misconduct, inefficiency, method of executing the work, or non-execution thereof or due to defective work or materials.
- 16.02 CONTRACTOR shall restore each job site at his own expense to a condition equal to that existing before the damage or injury. In the case of failure on the part of the CONTRACTOR to restore or make good such damage or injury, the Engineer may, upon forty-eight (48) hours written notice, proceed to repair, rebuild or otherwise restore such property and the cost thereof shall be deducted from monies due to which may become due the CONTRACTOR. In the event no monies are available, the amount shall be charged against the CONTRACTOR'S Surety.
- 16.03 In the event of an approaching tropical storm, hurricane, etc., the CONTRACTOR shall, at the direction of the Engineer or his authorized representative, prepare the job site by securing any and all materials, equipment, etc. This includes anchoring any job trailer if it is to stay on the site during the storm. The CONTRACTOR shall assure the Engineer that the building is secure and watertight. The CONTRACTOR shall absorb all associated costs.

ARTICLE XVII: PROGRESS AND FINAL PAYMENTS

- 17.01 The compensation, as herein provided, constitutes full payment for the complete Work including all materials, labor, tools, equipment and incidentals necessary for performing the Work under this Contract.
- 17.02 CONTRACTOR shall submit pay requests in accordance with the section entitled "City of Biloxi Testing and Submittal Requirements" of the specification. All applications for payment shall be certified by the CONTRACTOR that to the best of CONTRACTOR'S knowledge, information and belief, the Work covered by the application for payment has been completed in accordance with the Contractor Documents, that all amounts have been paid by the CONTRACTOR for Work for which previous Certificates for Payment were issued and payments received for the OWNER, and that that the current payment shown in the pay application is now due. In addition, all applications for payment shall include certification to the project engineer or architect indicating payments to subcontractors on prior payment request, as required by Miss. Code of 1972, §31-5-25.
- 17.03 OWNER shall make progress payments on the basis of CONTRACTOR'S application for

CONSTRUCTION AGREEMENT (Continued)

payment as approved by the ENGINEER during the course of this agreement. All progress payments will be on the basis of the approved progress of the work completed and stored to date measured by the schedule of values.

- 17.04 All partial, progress or interim payments or monies owed to CONTRACTOR shall be paid when due and payable under the terms of the Contract. If they are not paid within forty-five (45) calendar days from the date approved by the OWNER, then they shall bear interest in accordance with §31-5-24 of the Mississippi Code of 1972, Annotated.
- 17.05 The Engineer may refuse to approve the whole or any part of any payment if, in his opinion, he is unable to make such representations to the OWNER. Engineer may also refuse to approve any such payment, or because of subsequently discovered evidence or the result of subsequent inspection or tests, nullify any such payment, or any part of any payment, previously approved to such extent as may be necessary in his opinion to protect the OWNER from loss because:
- (a) Completed Work or existing property has been damaged by the CONTRACTOR or his Subcontractors, requiring replacement or repair;
 - (b) The Work for which payment is requested cannot be verified or was not verified by the OWNER at the time of payment, but subsequent verifications revealed discrepancies;
 - (c) The Engineer or his authorized representative verifies the Work and the OWNER pays for the Work, but subsequent discoveries reveal discrepancies between the Contract and the payment;
 - (d) Claims or Liens have been filed, or there is reasonable evidence indicating the probable filing thereof;
 - (e) The Task price has been reduced because of Modifications;
 - (f) The OWNER has been required to correct defective Work, complete the Work, or maintain traffic control due to unsafe conditions;
 - (g) Of unsatisfactory prosecution of the Work, including failure to clean up the job site;
 - (h) Of persistent failure to carry out the Work in accordance with the Contract Documents;
 - (i) Of liquidated damages payable by the CONTRACTOR; or
 - (j) Of any other violation thereof, or failure to comply with, the provisions of the Contract Documents.

CONSTRUCTION AGREEMENT (Continued)

- 17.06 If, on the basis of Engineer's observation and review of the Work during construction, his inspection and his review of the Application for Payment, Engineer is satisfied that the Work has been completed and CONTRACTOR has fulfilled all of his obligations under the Contract and has made all corrections to remedy deficiencies in the Work, then the Engineer shall approve payment. Otherwise, he will return the application to CONTRACTOR, indicating in writing his reasons for refusing to approve payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application.

ARTICLE XVIII: RETAINAGE

- 18.01 Prior to fifty percent (50%) completion, progress payments will be in an amount equal to ninety-five percent (95%) of the work completed, and ninety-five percent (95%) of material and equipment not incorporated in the work but delivered and suitably stored, less than each case the aggregate of payments previously made.
- 18.02 Once fifty percent (50%) project completion has been obtained, but prior to final completion, progress payments will be in an amount equal to ninety-seven and one-half percent (97.5%) of the work completed, and ninety-seven and one-half percent (97.5%) of material and equipment not incorporated in the work but delivered and suitably stored, less than each case the aggregate of payments previously made; provided that the project is on schedule and all work is satisfactory in the opinion of the City Engineer. At fifty percent (50%) project completion, as described above, fifty percent (50%) of the retainage held to date shall be returned.
- 18.03 Upon final completion of the work and settlement of all claims, OWNER shall pay the remainder of all completed work plus any and all retainage provided the CONTRACTOR has submitted the Record Drawings.
- 18.04 When the Work is finally completed, the total cost to the OWNER will be computed. If the total cost is greater than the cost which would have resulted under the unit prices established under the Contract, the extra expense will be the responsibility of the original CONTRACTOR'S Surety. If the total cost is less than the cost which would have resulted under the unit prices established under the Contract, the savings will be paid to the original CONTRACTOR'S Surety.

ARTICLE XIX: FINAL ACCEPTANCE & WARRANTIES

- 19.01 Upon written notice from the CONTRACTOR of substantial completion of all the major items of work or upon due notice from the Engineer a final inspection will be made by the City Engineer or his authorized representative. If all work provided by the Contract has been completed to his satisfaction, that inspection will constitute the final inspection. If the inspection discloses any work as being unsatisfactory or incomplete, the City Engineer or his authorized representative will discuss in detail with the CONTRACTOR all discrepancies in the work. Upon correction of the work, another inspection will be made which shall constitute the final inspection provided the work has been satisfactorily

CONSTRUCTION AGREEMENT (Continued)

completed.

19.02 Prior to final payment being made, the CONTRACTOR will be required to submit to the City Engineer or his authorized representative, a maintenance guarantee to ensure against defects in workmanship or materials for a time period of two years from the date of final payment with the City of Biloxi named as the sole beneficiary. The guarantee shall be in any of the following acceptable forms:

- (a) Certified check from a Mississippi lender based upon a cash deposit, in a form acceptable to the City Attorney;
- (b) Irrevocable letter of credit from a Mississippi banking institution in a form acceptable to the City Attorney; or
- (c) Surety bond from a Mississippi surety bonding company in a form acceptable to the City Attorney.

19.03 CONTRACTOR shall guarantee all work under Contract for a period of two (2) years after the date of final payment by the OWNER for this project (the "Warranty Period").

19.04 If, prior to the expiration of the Warranty Period, or such a longer period of time as may be prescribed by law, any work is found to be defective, CONTRACTOR shall promptly without cost to the OWNER and in accordance with OWNER'S written instructions, either correct such defective work, or, if it has been rejected by the OWNER, remove it from the site and replace it with corrected work. If the CONTRACTOR does not promptly comply with the terms of such instructions, the OWNER may have the defective work corrected or the rejected work removed and replaced and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid for by funds generated through the maintenance guarantee shall be conditioned on the performance of all work necessary to warranty required public infrastructure improvements during the term of the maintenance guarantee, including work needed to repair or replace defects in workmanship or defective materials. Maintenance guarantees shall provide that in case of the CONTRACTOR'S failure to repair or replace the guaranteed work during the term on the maintenance guarantee, the OWNER shall be able to immediately obtain the funds necessary to make such repairs or replacements, including but not limited to costs associated with labor, equipment and materials.

19.05 Maintenance guarantee shall be dependent on the total value of the Contract a minimum amount as shown in the table below:

| Amount of Construction Contract | Required Bond Value |
|---------------------------------|---------------------|
| \$0 - \$2,500,000 | \$250,000 |
| \$2,500,000 - \$5,000,000 | \$500,000 |
| \$5,000,000 - \$10,000,000 | \$750,000 |
| \$10,000,000 - \$25,000,000 | \$1,000,000 |

CONSTRUCTION AGREEMENT (Continued)

| | |
|--------------------------------|-------------|
| \$25,000,000 - \$50,000,000 | \$1,500,000 |
| \$50,000,000 - \$75,000,000 | \$2,000,000 |
| \$75,000,000 - \$100,000,000 | \$2,500,000 |
| \$100,000,000 - >\$150,000,000 | \$3,000,000 |

- 19.06 The City Engineer shall release the maintenance guarantee at the end of the term of the guarantee only after an inspection of the work has been performed and work performed under the Contract is shown to be in proper working order.
- 19.07 In the event a bond is used as the guarantee, the form of the bond shall be that acceptable to the OWNER. The bond shall be negotiated for, procured from and the premium paid to a qualified surety agent as listed below. The bonds may be made by any surety company which is authorized to do business in the State of Mississippi and listed on the United States Treasury Department's list of acceptable sureties, or such bonds may be guaranteed by a personal surety as otherwise provided for in the Mississippi Code of 1972 as referenced below. The bond shall be signed or countersigned by a qualified surety agent and also bear the signature of an "attorney-in-fact" of the surety. (Reference is made to Section 31-5-51 et seq of the Mississippi Code of 1972, Annotated, and other State statutes applicable thereto).
- 19.08 Except as otherwise provided herein, for a personal surety, no surety or surety company shall be allowed to guarantee or write bonds for construction, alteration or repair of a public building or for public work, unless that surety is listed on the United States Treasury Department's list of acceptable sureties.
- 19.09 When the Work is finally completed, the total cost to the OWNER will be computed. If the total cost is greater than the cost which would have resulted under the unit prices established under the Contract, the extra expense will be the responsibility of the original CONTRACTOR'S Surety. If the total cost is less than the cost which would have resulted under the unit prices established under the Contract, the savings will be paid to the original CONTRACTOR'S Surety.
- 19.10 The final payment will not be issued until after the final as-built drawings have been submitted, reviewed for accuracy and accepted. Final as-built drawings must be provided in both digital and hard copies. Digital files shall consist of a complete .PDF of the as-built drawings as well as the CADD files (.dgn, .dwg or .dxf format; Microstation or AutoCAD, latest versions acceptable to the OWNER). One (1) full-size hard copy shall also be provided. A digital copy of the original design drawings is available upon request.
- 19.11 As-built drawings in digital format shall have all field changes incorporated into the original Contract drawings. Hard copies of as-built drawings shall show the redlined field changes on the original Contract drawings. Redlines on hard copies shall stand out by color.

ARTICLE XX: RECORDS

- 20.01 All CONTRACTOR records with respect to any matters covered by this agreement shall be made available to OWNER, grantor agency, the Comptroller General of the United States, their designees or the Federal Government, at any time during normal business hours, as often as OWNER or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by CONTRACTOR within thirty (30) days after receipt by CONTRACTOR. Failure of CONTRACTOR to comply with the above audit requirements will constitute a violation of this Contract and may result in the withholding of future payments.
- 20.02 CONTRACTOR shall retain all records pertinent to expenditures incurred under this Contract for a period of three (3) years after the termination of all activities funded under this agreement, or after the resolution of all Federal Audit Findings, whichever occurs later.
- 20.03 CONTRACTOR shall retain all records pertinent to subcontracts incurred under this Contract for a period of three (3) years after the termination of all activities funded under this agreement, or after the resolution of all Federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Contract shall be retained for three (3) years after final disposition of such property.

ARTICLE XXI: INSURANCE REQUIREMENTS

- 21.01 CONTRACTOR shall carry:
- (a) Commercial general liability insurance coverage (including subcontractors) with limits not less than \$1,000,000 each occurrence; \$2,000,000 aggregate (aggregate applies to all work under this Contract); automobile liability - \$1,000,000 combined single limit-each accident;
 - (b) Workers' Compensation and Employers' Liability with a waiver subrogation in favor of the City of Biloxi - Statutory & \$100,000 each accident; \$100,000 each employee; \$500,000 policy limit.
- 21.02 Each policy shall be signed or countersigned by a Mississippi Resident Agent of the insurance company.
- 21.03 CONTRACTOR further indemnifies and saves the OWNER harmless from and against any loss, damage and liabilities occasioned by, growing out of, or resulting from any default hereunder, relating to the execution of this agreement.
- 21.04 The CONTRACTOR shall name the City of Biloxi as an additional insured on the Certificate of Insurance furnished to the OWNER from the Insurance Company providing the required coverage. The certificate(s) shall be on the form furnished by the OWNER

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and will show the types and limits of coverage.

- 21.05 The CONTRACTOR shall purchase and maintain, in a company or companies lawfully authorized to do business in the State of Mississippi, property insurance written on a builder's risk "all-risk" policy in the amount of the Contract Price plus value of subsequent Change Orders, comprising total value for the entire Project at the site on a replacement cost basis. Such property insurance shall be maintained until the date of final payment. This insurance shall include coverage of the City of Biloxi, the CONTRACTOR, and Subcontractors in the Project. The form of policy for this coverage shall be Completed Value. If the CONTRACTOR fails to maintain such insurance, then the CONTRACTOR shall bear all repair costs to the project.
- 21.06 When any portion of the work to be completed under this Contract shall be performed on the navigable waters of the United States or in adjoining waterfront areas, CONTRACTOR shall provide evidence of coverage for The United States Longshore and Harbor Workers' Compensation Act with an insurance company rated by A.M. Best Company not less than A-X that is licensed and admitted to operate in the State of Mississippi.
- 21.07 Providing the types of insurance coverage to be described herein does not reduce nor relieve CONTRACTOR from his responsibility for any losses not covered by insurance.

ARTICLE XXII: TERMINATION OF CONTRACT

- 22.01 OWNER may terminate this Contract at any time by giving written notice to CONTRACTOR of such termination and specifying the effective date thereof. Partial terminations of the Specifications or Proposal Document may only be undertaken with the prior approval of OWNER. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by CONTRACTOR under this agreement shall, at the option of OWNER, become the property of OWNER, and CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed (by unit price) on such documents or materials prior to the termination. Upon termination for convenience, the payment made to CONTRACTOR will be based upon approved units completed. OWNER may also suspend or terminate this Agreement, in whole or in part, if CONTRACTOR materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and OWNER may declare CONTRACTOR ineligible for any further participation in OWNER Contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe CONTRACTOR is in noncompliance with any applicable rules or regulations, OWNER may withhold up to fifteen (15) percent of said Contract funds until such time as CONTRACTOR is found to be in compliance by OWNER, or is otherwise adjudicated to be in compliance.
- 22.02 The Contract may be terminated for default by the OWNER for any of the following

CONSTRUCTION AGREEMENT (Continued)

reasons:

- (a) Failure to proceed with the Work when so instructed by the OWNER or to adhere to the requirements of the Contract.
 - (b) Failure to perform the Work with sufficient workmen, equipment and materials to assure completion within Contract Time.
 - (c) Performing unacceptable Work, or neglecting or refusing to remove materials or to perform anew such Work as may be rejected as unacceptable.
 - (d) Discontinuing the prosecution of Work.
 - (e) Violation of labor provisions and special regulations.
 - (f) Becoming insolvent, being declared bankrupt or committing any act of bankruptcy or insolvency.
 - (g) Allowing a final judgment to stand unsatisfied.
 - (h) Failure for any other cause whatsoever to carry on work in an acceptable manner.
- 22.03 Before the Contract is terminated, the CONTRACTOR and the Surety will be notified in writing by the OWNER of the conditions which make termination of the Contract imminent. If no effective effort has been made by the CONTRACTOR or his Surety to correct the conditions of which complaint is made within fifteen (15) calendar days after notice is given, the OWNER may declare the Contract terminated and notify the CONTRACTOR and his Surety accordingly.
- 22.04 Upon receipt of notice from the OWNER that the Contract has been terminated the CONTRACTOR shall immediately discontinue all Work under the Contract.
- 22.05 After termination the OWNER will order the Surety to arrange for the prosecution of the Work. If the Surety does not proceed with the satisfactory prosecution of the work within twenty (20) calendar days from the date on which the Contract was terminated, the OWNER may proceed in any other lawful manner which will provide for the completion of the Work as planned. The Surety or the OWNER, at the Surety's expense will perform or arrange for necessary maintenance between the date of termination and the date that Work is resumed.

ARTICLE XXIII: INDEMNIFICATION

- 23.01 CONTRACTOR will indemnify and hold harmless OWNER, Engineer and their agents and employees from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting from the performance of the work, provided that any such

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claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from omission of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

- 23.02 In any and all claims against OWNER and Engineer or any of their agents or employees by any employee of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 23.01 above shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any Subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.
- 23.03 CONTRACTOR shall, at its sole cost, defend all suits brought upon by such losses, and pay all costs and expenses incidental thereto, but the OWNER, or any of Indemnified Parties, so sued shall have the right at its/their option, to participate in the defense of any such suit, without relieving CONTRACTOR of any obligations hereunder.
- 23.04 CONTRACTOR'S obligations to indemnify under this Agreement shall survive termination or expiration of this Agreement.

ARTICLE XXIV: DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

- (a) Agreement - The written agreement between Owner and Contractor covering the Work to be performed; other Contract Documents are attached to the Agreement.
- (b) Bid - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- (c) Bidder - Any person, firm or corporation submitting a Bid for the Work.
- (d) Bonds - Bid, performance and payment bonds and other Instruments of security, furnished by Contractor and his surety in accordance with the Contract Documents.
- (e) Change Order - A written order to Contractor signed by Owner authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after the execution of the Agreement.
- (f) Contract Documents - The Agreement, Addenda (whether issued prior to the opening of Bids or the execution of the agreement), Instructions to Bidders, Contractor's Bid, the Bonds, the Notice of Award, these General Conditions, the Supplementary

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- Conditions, the Specifications, Drawings, Modifications, Notices to Proceed and Purchase Orders.
- (g) Contract Price – The price provided for in the Contract for a specifically described unit of work.
 - (h) Contract Time – The period of time beginning upon execution of the Agreement between Owner and Contractor and continuing through until termination of the Agreement, including any option to extend the time.
 - (i) Contractor - The person, firm or corporation with whom Owner has executed the Agreement.
 - (j) Day – A calendar day is defined as any day shown in the calendar beginning and ending at midnight.
 - (k) Drawings - The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by the Engineer and are referred to the Contract Documents.
 - (l) Engineer - The person, firm or corporation named as such in the Agreement or the City Engineer for Biloxi, Mississippi.
 - (m) Modification - (a) A written amendment of the Contract Documents signed by both parties, (b) a Change Order, (c) a written clarification or interpretation issued by Engineer, or (d) a written order for a minor change or alteration in the Work issued by Engineer. A Modification may only be issued after execution of the Agreement.
 - (n) Notice of Award - The written notice by Owner to the apparent successful Bidder stating that upon compliance with conditions precedent to be fulfilled by him within the time specified, Owner will execute and deliver the Agreement to him.
 - (o) Notice to Proceed - A written notice given by Owner to Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform his obligations under the Contract Documents on a specific segment of Work.
 - (p) Owner - A public body or authority, corporation, association, partnership, or individual for whom the Work is to be performed.
 - (q) Project - The entire construction to be performed as provided in the Contract Documents.
 - (r) Resident Project Representative - The authorized representative of Engineer who is assigned to the Project site or any part thereof.

CONSTRUCTION AGREEMENT (Continued)

- (s) Shop Drawings - All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by Contractor, a Subcontractor, manufacturer, supplier or distributor and which illustrate the equipment, material or some portion of the Work.
- (t) Specifications - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work.
- (u) Subcontractor - An individual, firm or corporation having a direct Contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the site.
- (v) Substantial Completion - The date as certified by Engineer when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it was intended; or if there be no such certifications, the date when final payment is due.
- (w) Warranty Period – the period of time beginning on the date of OWNER’s final payment to CONTRACTOR for this Project and extending for two (2) years from that date, during which CONTRACTOR shall guarantee all work under this Contract.
- (x) Work - Any and all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by Contractor under the Contract Documents, including all labor, materials, equipment and other incidentals, and the furnishing thereof.

ARTICLE XXV: MISCELLANEOUS

- 25.01 Remedies upon Default. Termination by either party of this Agreement shall not limit or otherwise effect the remedies of the non-defaulting or non-breaching party against the defaulting or breaching party. In the event that either party is in material default under any of the terms or conditions of this Agreement or has materially breached any of its representations or warranties in this Agreement, the non-defaulting or non-breaching party shall be entitled to pursue, in addition to any remedies specifically provided herein, all further remedies then available at law or in equity.
- 25.02 Successors and Assigns. The OWNER and CONTRACTOR each bind itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns, or such party, in respect to all covenants of this Agreement. Nothing expressed or referred to in this Agreement shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto, nor shall it be construed as giving any rights, legal or equitable, benefits, remedies, or claims under or with respect

CONSTRUCTION AGREEMENT (Continued)

to this Agreement or any provision of this Agreement, to anyone other than the OWNER and CONTRACTOR.

- 25.03 Relationship of the Parties. CONTRACTOR'S relationship with the OWNER is that of an independent Contractor, and nothing in this Agreement is intended to, or shall be construed as creating a partnership, agency, joint venture, employment or similar relationship.
- (a) CONTRACTOR acknowledges that it and all its officers, employees, and agents is/are not an employee or agent of the OWNER for any purpose whatsoever. CONTRACTOR shall be responsible for all applicable I-9 and work eligibility verification, earnings reports and tax payments to government agencies, such as the U.S. Internal Revenue Service and the Social Security Administration including payment of all wages due its employees, insurance premiums, license fees, fingerprinting costs, outfitting expenses, and all other obligations and/or expenses of CONTRACTOR relative to its employees in performance of the duties under this Agreement.
 - (b) CONTRACTOR acknowledges that its personnel are not entitled to receive any of the fringe benefits received by the OWNER's employees, including but not limited to, Workers' Compensation Insurance.
 - (c) CONTRACTOR shall not have the authority to enter into any Contract on the OWNER's behalf, or to otherwise bind the OWNER to any agreement, unless expressly authorized to so do in writing.
 - (d) Because CONTRACTOR is an independent Contractor, the OWNER has no direction or control over Services to be performed hereunder, nor over CONTRACTOR'S personnel, and CONTRACTOR shall at all times remain the employer of its personnel performing the Services (and shall be liable for each of their actions, omissions or breaches). CONTRACTOR shall indemnify the OWNER from any claim made by any of CONTRACTOR'S personnel against the OWNER alleging rights or benefits as an employee of the OWNER.
- 25.04 Copyrights & Patents. If this Contract results in any copyrightable or patentable material, OWNER and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes.
- 25.05 Non-Discrimination. All persons having a Contract with the City of Biloxi must adhere to the OWNER's policy concerning non-discrimination on the basis of race, color, religion, sex, age, sexual orientation, gender identity, national origin, veteran or disability status.
- 25.06 Notices. All notices, consents, waivers and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a party when (a)

CONSTRUCTION AGREEMENT (Continued)

delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); or (b) received or rejected by the addressee, if sent by certified mail, return receipt requested, addressed and marked to the attention of the person (by name or title) designated below (or to such other address or person as a party may designate by notice to the other parties)

OWNER:
The City of Biloxi, Mississippi:
Attention: Mayor A. M. Gilich, Jr.
140 Lameuse Street
Biloxi, Mississippi 39530

With mandatory copies to:

City of Biloxi, Mississippi
City Attorney / Contract Manager
Post Office Box 429
Biloxi, Mississippi 39533

CONTRACTOR:
JE Talley Construction, Inc.
Attention: Joey Talley

25.07 Governing Law and Jurisdiction.

- (a) Governing Law. The laws of the state of Mississippi shall govern the application and interpretation of this Agreement.
- (b) Jurisdiction. The courts located in Harrison County, Mississippi, Second Judicial District, shall have exclusive jurisdiction of any dispute between the parties. If one party initiates an action against the other or should a party seek any form of relief against the other, then said action shall be filed in Harrison County, Mississippi, Second Judicial District. Any business or person doing business with the OWNER submits to the personal jurisdiction of the courts in Harrison County, Mississippi.

25.08 Amendments. This Agreement may not be altered or amended, nor may rights hereunder be waived, except by writing executed by both parties.

25.09 Assignability. CONTRACTOR may not assign any of its rights or delegate any of its obligations under this Agreement without the prior express written consent of the OWNER. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the CONTRACTOR.

CONSTRUCTION AGREEMENT (Continued)

- 25.10 No Waiver of Warranties. Notwithstanding any provisions to the contrary that may be found in this Agreement or any other supplemental terms that may be referenced therein, any provision that seeks to limit the OWNER's recovery resulting from a breach of express or implied warranties shall be of no force or effect.
- 25.11 No Waiver of Damages. Notwithstanding any provisions to the contrary that may be found in the Agreement, or any other supplemental terms that may be referenced therein, any provision that seeks to limit the OWNER's recovery in any manner shall be of no force or effect.
- 25.12 Waiver of Jury Trial. The OWNER shall not be subject to the terms of any provision or any supplemental terms that may seek to waive its right to a jury trial; and any such term(s) requiring same, shall be deemed to be of no force or effect as against the OWNER.
- 25.13 Force Majeure. Neither party shall be liable for failure to perform or delay in performing any obligation under the Agreement if the failure or delay is caused by any circumstances beyond its reasonable control, including, but not limited to, acts of God, war, civil commotion or industrial dispute ("Force Majeure"). If such delay or failure continues for at least sixty (60) days, then either party may provide written notice to terminate the Agreement; and, upon such termination, the parties will owe no further obligations to the other except with respect to any rights or obligations that may have accrued prior to termination.
- 25.14 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable for any reason, that provision shall be ineffective to the extent of such invalidity or unenforceability, and such invalidity or unenforceability shall not affect any other provision of this Agreement. If necessary, the parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent.
- 25.15 Authority. The parties represent that they have full power and authority to enter into and perform this Agreement and the parties know of no Contract, agreement, promise or undertaking which would prevent the full corporate execution and performance of this Agreement, and the persons executing this Agreement on behalf of the parties are duly authorized to do so and have the authority to bind such parties.
- 25.16 Entire Agreement. This Agreement constitutes the entire agreement of the Parties and supersedes all prior agreements, whether written or oral, between the Parties with respect to its subject matter (including any letter of intent, memorandum of understanding or other such non-binding document).
- 25.17 Arbitration. The OWNER shall not be subject to the terms of any provision any supplemental terms that may seek to require the OWNER to submit a dispute to arbitration; and, any such term(s) requiring same, shall be deemed to be of no force or effect as against the OWNER.

CONSTRUCTION AGREEMENT (Continued)

25.18 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or email transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

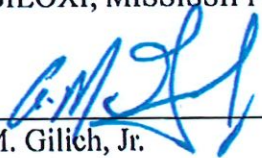
Signatures on following page

CONSTRUCTION AGREEMENT (Continued)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.


OWNER:

CITY OF BILOXI, MISSISSIPPI

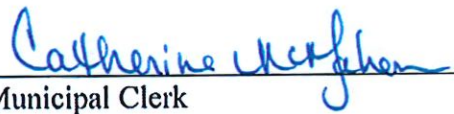
By: 
Name: A.M. Gilich, Jr.
Title: Mayor
Address: P.O. Box 429
Biloxi, MS 39530
Phone: (228) 435-6269
Email: mayor@biloxi.ms.us

CONTRACTOR:

JE Talley Construction, Inc.

By: 
Name: Joey Talley
Title: Vice President
Address: 1711 Prospect Avenue
Pascagoula, MS 39567
Phone: 228-217-5056
Email: jtalle1@yahoo.com

ATTESTED TO BY:


Deputy Municipal Clerk