

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.:

51

Council Meeting Date:

August 18, 2026

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: Richard Weaver, Chief Administrative Officer

Peter Abide, City Attorney

SUMMARY EXPLANATION:

Resolution authorizing entry into Memorandum of Understanding with Harrison County, Mississippi, by and through its Board of Supervisors, regarding new stormdrain outfall at White Avenue in connection with City's Capital Project No. 1123: White Avenue Outfall

Resolution



Ordinance

Public Hearing

Routine Agenda

Exhibits for Review

Contract



Minutes

Plans/Maps

Deed

Lease

Other (Specify): Exhibit A: Memorandum of Understanding

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:

081826rcon

Resolution No.

RESOLUTION AUTHORIZING ENTRY INTO MEMORANDUM OF UNDERSTANDING
WITH HARRISON COUNTY, MISSISSIPPI, BY AND THROUGH ITS BOARD OF
SUPERVISORS, REGARDING NEW STORMDRAIN OUTFALL AT WHITE AVENUE IN
CONNECTION WITH CITY'S CAPITAL PROJECT NO. 1123: WHITE AVENUE OUTFALL

WHEREAS, pursuant to Miss. Code Ann. §§ 59-9-21, 65-33-1, 65-33-47, and 65-33-51, Harrison County, Mississippi, by and through its Board of Supervisors (the "County") has statutory authority and responsibilities regarding sand beach construction and its administration for the public use and has full power and authority to do any and all things necessary in and about the repair, reconstruction, or construction or maintenance of the sea wall and sand beach adjacent thereto, and the County has exercised said authority, in part, through its designated subordinate agency, the Harrison County Sand Beach Authority;

WHEREAS, the City has been awarded a GOMESA grant for the purposes of combine and relocate three (3) existing storm drain pipes into one singular new poured in place box culvert system at White Avenue;

WHEREAS, such outfall is situated on the Harrison County Sand Beach;

WHEREAS, the City and the County have agreed that the White Avenue Outfall should be replaced and that following the City's construction of the new outfall, the County will assume ownership and maintenance responsibilities for such outfall;

WHEREAS, under the terms and conditions of the Memorandum of Understanding, attached hereto as Exhibit "A,"

WHEREAS, in recognition of the constitutional, statutory and common law duties and responsibilities of both the County and the City, the County and the City desire entry into a Memorandum of Understanding, in substantially the form attached hereto as Exhibit "A," for

purposes of setting forth mutually agreeable guidelines, principles and responsibilities of the parties regarding the City's construction of a new stormdrain outfall at White Avenue; and

WHEREAS, it is the recommendation of Peter C. Abide, City Attorney, that the City enter into the Memorandum of Understanding, in substantially the form attached hereto as Exhibit "A."

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

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 is hereby authorized to execute, on behalf of the City of Biloxi, the Memorandum of Understanding, in substantially the form attached hereto as Exhibit "A," with Harrison County, Mississippi, by and through its Board of Supervisors, regarding the construction of a new stormdrain outfall at White Avenue to occur under the City's Capital Project No. 1123: White Avenue Outfall.

SECTION THREE: This Resolution will be in effect from and after its adoption.

**EXHIBIT
A**

MEMORANDUM OF UNDERSTANDING BY AND BETWEEN HARRISON COUNTY,
MISSISSIPPI AND THE CITY OF BILOXI, MISSISSIPPI REGARDING CONSTRUCTION
OF A NEW STORMDRAIN OUTFALL AT WHITE AVENUE

THIS MEMORANDUM OF UNDERSTANDING (this "MOU") is made effective as of the ____ day of _____, 2026, by and between the City of Biloxi, Mississippi, by and through its Mayor and City Council, (the "City") and Harrison County, Mississippi, by and through its Board of Supervisors, (the "County"). This MOU sets forth an understanding between the two parties to pursue a common goal of constructing a new outfall at White Avenue.

WITNESSETH:

WHEREAS, the County, pursuant to Miss. Code Ann. §§ 59-9-21, 65-33-1, 65-33-47, and 65-33-51, has statutory authority and responsibilities regarding sand beach construction and its administration for the public use and has full power and authority to do any and all things necessary in and about the repair, reconstruction, or construction or maintenance of the sea wall and sand beach adjacent thereto, and the County has exercised said authority, in part, through its designated subordinate agency, the Harrison County Sand Beach Authority;

WHEREAS, the City has been awarded GOMESA grant funding in the amount of One Million Two Hundred Seventy-Seven Thousand Five Hundred and 00/100 Dollars (\$1,277,500.00) through the Mississippi Department of Marine Resources for the purpose of combining and relocating three (3) existing storm drain pipes into one singular new poured in place box culvert system. The existing storm drainage pipes will be intercepted just south of the existing seawall where new overflow boxes will be installed for improved drainage of Highway 90, and the remainder of the outdated and damaged infrastructure will be demolished. The finished system will result in a clean and highly functionable infrastructure network for this area of the beach in addition to being a major amenity for the public to enjoy our Mississippi waters. The completed project will be designed to accomplish these goals and shall be designed in accordance with Section 2.2 and as more fully described in the Memorandum of Understanding by and between the City and the Mississippi Department of Marine Resources, attached hereto as Exhibit "A"; and

WHEREAS, in recognition of the constitutional, statutory and common law duties and responsibilities of both the County and the City, this memorandum of understanding is entered into for purposes of setting forth mutually agreeable guidelines, principles and responsibilities of the parties regarding the construction, ownership and maintenance of the new storm drain outfall at White Avenue, to be situated on the sand beach, for the use and benefit of the public.

IN CONSIDERATION of the mutual covenants and promises herein provided, the County does hereby authorize for City use, and the City does hereby accept for use, pursuant to the authority of Miss. Code Ann. §§ 21-37-15, 49-15-9, 59-7-405, and 59-15-1, the property identified in the preliminary plans attached hereto as Exhibit "B" (hereinafter referred to as the "Premises").

1. USE OF PREMISES. The City, at its sole cost and expense, will use the Premises only

for the purpose of constructing a new storm drain outfall at White Avenue.

2. IMPROVEMENTS.

2.1. The City specifically acknowledges that the primary purpose of the improvement to be constructed on the Premises is to provide stormwater drainage.

2.2. Prior to any improvements being made on the Premises, the City will submit all plans (including drawings and/or renderings) for any and all improvements to the County to allow for input and comment. If no objection or comment is received by the City within thirty (30) days, the City may proceed with the improvement as submitted. If, within thirty (30) days, County is dissatisfied with the proposed improvements, the County shall so advise the City, and thereafter, the parties will meet in good faith and attempt to negotiate a compromise of any disagreements. Both parties will use best efforts to reach an agreement on any disputed issues, based on the higher public purpose of promoting public access and use.

2.3. With respect to any and all improvements on the Premises that the City undertakes, the City shall conform to and observe, and require all of City's architects, engineers, laborers, contractors, subcontractors, and materialmen to conform to and observe, all laws, statutes, building codes, rules, and regulations relating to such improvements. The City shall be responsible for, and shall defend and hold harmless, the County from and against, any and all claims, liabilities, and damages caused by the City's construction of any improvements. Any and all improvements that the City is required or permitted to make shall be performed (a) by experienced, licensed, bonded, and insured contractors; (b) in full compliance with all applicable laws, rules, regulations, building codes, and permit requirements; and (c) in a good and workmanlike manner, all at the City's sole cost and expense.

2.4. The City agrees and covenants that it will not allow any liens to be placed against the subject property as a result of said construction. This includes but is not limited to contractor's liens, materialman's/mechanics liens, *lis pendens* notices or security interests in any property which may become fixed to the realty. The City shall further be solely responsible for obtaining and paying for all necessary permits, applications and approvals for any contemplated repairs and/or modifications to the Premises, and the City will, in all respects and at all times comply with all applicable codes, ordinances, rules, and regulations. The City will promptly pay, when due, all bills and charges incurred for labor and materials utilized in the performance by the City of alterations and improvements, upon, or within the Premises as herein permitted to be accomplished by the City, and the City will not suffer or permit any lien to attach to or against the Premises by reason of its nonpayment of same.

2.5. The City further agrees that in the event of any loss, damage, or destruction of any movable or immovable property belonging to the City, whether the City has insured same, neither City nor its insurer shall have any recourse against the County, it being understood and agreed that City assumes all risk of damage to its property

arising from any causes whatsoever, including, without limitation, loss by theft, fire, storm, riot, hurricane, or otherwise. The City understands and agrees that if any movable or immovable property owned by or in the actual or constructive possession of the City is lost, damaged, or destroyed, regardless of the cause or amount of such loss, damage, or destruction and regardless of whether such loss, damage, or destruction is adequately covered by insurance carried by the owner of such property, under no circumstance shall the County ever be liable for such loss, damage, or destruction, however caused, either to the party whose property is so lost, damaged, or destroyed, or to the insurer of such party.

- 2.6. Upon completion of the subject outfall, the City will transfer ownership of the outfall to the County.

3. REPAIRS AND MAINTENANCE.

- 3.1. During construction, at the City's sole cost and expense, City shall keep and maintain the Premises in good order, condition, and repair, including, without limitation, with respect to all improvements constructed on the Premises by the City should the City fail to do so, the County retains the right to make such repairs and assess costs to the City.
- 3.2. Upon completion of the subject outfall and following the transfer of ownership from the City to the County, the County will assume full responsibility for maintenance and repair of the outfall.
- 3.3. The City covenants that it will not cause or allow any waste to occur on the Premises at any time during the term of this MOU.
- 3.4. The City acknowledges that County maintains the sand beach surrounding the Premises and covenants that it will at all times cooperate with County in respect to the maintenance of the sand beach and shall not construct any impediment to the maintenance of the sand beach.

4. **UTILITIES.** The City agrees and covenants to pay or cause to be paid all bills, charges, and surcharges for all utilities on the Premises during construction, including but not limited to, electricity.
5. **CONSIDERATION.** In accordance with Miss. Code Ann. § 29-15-13, and other statutory authority, the City and County agree that the City shall be exempt from any use or rental fees to the County for use of the Premises. The sole consideration for this MOU is the City's covenant to construct, operate and maintain, at its sole expense, the Premises as provided herein.
6. **TERMINATION.** Upon completion of construction, and transfer of ownership of the outfall to the County, this MOU will terminate.
7. **LAWS OF MISSISSIPPI TO GOVERN.** This MOU is to be governed by the laws of the State of Mississippi, both as to interpretation and performance. Jurisdiction and venue

for any litigation between the parties hereto shall be filed in the appropriate court for the Second Judicial District of Harrison County, Mississippi.

8. MISCELLANEOUS; RESERVATION OF RIGHTS; AND REMEDIES.

- 8.1. This instrument constitutes the entire agreement between the County and the City and supersedes all prior understandings, previous negotiations, and any memoranda of understanding with respect to the subject matter hereof.
- 8.2. Notwithstanding any provision of this MOU to the contrary, the County and the City reserve, and shall continue to have, all rights existing under Mississippi and federal law. It is the intention of the City and the County that this MOU not be interpreted in any respect to abandon, delete or detract from any rights that either the County or the City has under Mississippi law now or in the future.
- 8.3. The County and the City, by entering this use MOU, do not waive any rights they may have regarding ownership or title to the Premises, rights to use, operate, or manage the Premises, or any other rights they may have pertaining to the Premises. The County and the City reserve their rights at any time to file judicial actions regarding ownership or title to the Premises, rights to use, operate, or manage the Premises, or any other rights they may have pertaining to the Premises.
- 8.4. The remedies set forth in this MOU are not exclusive, and the election of one remedy by the County or the City shall not be deemed or construed as a waiver of any other remedy available to County or the City. In addition to the remedies provided in this MOU, the County and the City shall be entitled to whatever remedies they may have otherwise at law or in equity.
- 8.5. This MOU may not be modified or amended, except by writing executed by both parties.

Signatures on following pages

IN WITNESS WHEREOF, this MOU is executed by the City of Biloxi, Mississippi and Harrison County, Mississippi, this the _____ day of _____, 2026.

CITY OF BILOXI, MISSISSIPPI

BY: _____
A. M. Gilich, Jr., Mayor

STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said county and state, on this _____ day of _____, 2026, within my jurisdiction the within named, A.M. Gilich, Jr., personally known to me to be the Mayor of the City of Biloxi, who acknowledged that he executed the above and foregoing Memorandum of Understanding as the act and deed of said City, on the date and for the purposes therein stated, being first duly authorized to so do as the sole signatory thereof.

NOTARY PUBLIC

My Commission Expires:

HARRISON COUNTY, MISSISSIPPI

BY: _____
_____, President
Harrison County Board of Supervisors

STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said county and state, on this ____ day of _____, 2026, within my jurisdiction the within named, _____, personally known to me to be the President of the Harrison County Board of Supervisors, who acknowledged that he/she executed the above and foregoing Memorandum of Understanding as the act and deed of said County, on the date and for the purposes therein stated, being first duly authorized to so do as the sole signatory thereof.

NOTARY PUBLIC

My Commission Expires: