CITY OF BILOXI
AGENDA ITEM
FACT SHEET

Item No.: 5A

Council Meeting Date: December 1, 2026

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: Richard Weaver, Chief Administrative Officer

Christy LeBatard, Director of Engineering & Public Works

SUMMARY EXPLANATION:

Resolution authorizing entry into Replacement Memorandum of Agreement with the Mississippi Department of Transportation in connection with Capital Project No. 1108: Popp's Ferry Bridge

Resolution ✓ **Ordinance** _____ **Public Hearing** _____ **Routine Agenda** _____

Exhibits for Review

Contract _____ **Minutes** _____ **Plans/Maps** _____ **Deed** _____ **Lease** _____

Other (Specify): Exhibit "A" - MDOT Email
Exhibit "B" - Replacement MOA

Submittal Authorization: **Council President** _____ **Mayor** ✓

STAFF RECOMMENDATION:

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:

120126 aengpw/cl

Resolution No.

RESOLUTION AUTHORIZING ENTRY INTO REPLACEMENT MEMORANDUM OF AGREEMENT WITH THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH CAPITAL PROJECT NO. 1108: POPPS FERRY BRIDGE

WHEREAS, the Mississippi Transportation Commission, acting by and through the Mississippi Department of Transportation (MDOT) has authorized the award of grant funds for the purpose of replacing the draw in the existing Popps Ferry Bridge, in the total amount of $12,000,000.00, with a match of $3,000,000.00 required from the City of Biloxi (City);

WHEREAS, by Resolution No. 761-23, the City authorized entry into a Memorandum of Agreement (MOA), accepting the grant and the terms and conditions of MDOT and amending the municipal budget to recognize the funds into Capital Project No. 1108: Popps Ferry Bridge (C1108);

WHEREAS, by Resolution No. 74-25, the City authorized entry into Replacement MOA extending the deadline until June 30, 2026;

WHEREAS, on June 1, 2026, via email, attached as Exhibit "A", MDOT authorized extension of the MOA until December 31, 2026;

WHEREAS, there have been delays in Project C1108 and the City requested an extension of the December 31, 2026, deadline;

WHEREAS, the second Replacement MOA attached hereto as Exhibit "B," extends the deadline until June 30, 2027; and

WHEREAS, it is the recommendation of Christy LeBatard, Director of Public Works and Engineering, that the City authorizes entry into the second Replacement Memorandum of Agreement, attached hereto as Exhibit "B".

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY

COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

SECTION ONE: The findings, conclusions and statements of fact contained in the 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 Replacement Memorandum of Agreement, attached hereto as Exhibit "B", with the Mississippi Transportation Commission, acting by and through the Mississippi Department of Transportation.

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

Exhibit A

From: Starita, Chuck
To: David Seyfarth; Christy LeBata
Cc: Lamey, Katherine E
Subject: FW: MOA Extension Request Letter - Project STPD-9376-00(011)LPA/104384-802000 City of Biloxi - Popps Ferry Road Bridge Improvements(NS.18977)
Date: Monday, June 1, 2026 12:58:47 PM
Attachments: image002.png

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see below from Mitchell Young.

Chuck Starita, P.E.
District 6 LPA Engineer
Mississippi Department of Transportation
16499-B Hwy 49 / Saucier, MS 39574
Cell (228) 326-3626
Office (228) 832-0682 Fax (228) 831-5386

From: Young, Mitchell R <mryoung@mdot.ms.gov>
Sent: Monday, June 1, 2026 10:12 AM
To: Starita, Chuck <cstarita@mdot.ms.gov>
Cc: Clark, Amanda G. <aclark@mdot.ms.gov>; Horton, Zachary M. <zhorton@mdot.ms.gov>; Lamey, Katherine E <klamey@mdot.ms.gov>
Subject: RE: MOA Extension Request Letter - Project STPD-9376-00(011)LPA/104384-802000 City of Biloxi - Popps Ferry Road Bridge Improvements(NS.18977)

Chuck,

We'll allow an extension to 12/31/26.

Thanks,
Mitchell

From: Starita, Chuck <cstarita@mdot.ms.gov>
Sent: Wednesday, May 13, 2026 1:31 PM
To: Young, Mitchell R <mryoung@mdot.ms.gov>
Cc: Clark, Amanda G. <aclark@mdot.ms.gov>; Horton, Zachary M. <zhorton@mdot.ms.gov>; Lamey, Katherine E <klamey@mdot.ms.gov>
Subject: FW: MOA Extension Request Letter - Project STPD-9376-00(011)LPA/104384-802000 City of Biloxi - Popps Ferry Road Bridge Improvements(NS.18977)

Please see attached MOA extension request from City of Biloxi for the subject project.

From: David Seyfarth <david.seyfarth@neel-schaffer.com>
Sent: Thursday, July 2, 2026 8:48 AM
To: Christy LeBatard <clebatard@biloxi.ms.us>
Subject: FW: 074-25 City of Biloxi 104384-802000 Executed Replacement MOA (002).pdf

The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.

Please note that per Chuck Starita – a replacement MOA will not be sent (unless the City wants one).

DAVID SEYFARTH, P.E., P.S.
Senior Project Manager
Neel-Schaffer, Inc.
795 Howard Ave, Biloxi, MS 39530
O: 228.374.1211 | D: 228.232.1102 | M: 228.861.4969
www.neel-schaffer.com

From: David Seyfarth
Sent: Friday, June 5, 2026 10:56 AM
To: 'Christy LeBatard' <clebatard@biloxi.ms.us>
Subject: RE: 074-25 City of Biloxi 104384-802000 Executed Replacement MOA (002).pdf

I received an email from Chuck stating that the extension to 12/31/26 is approved. He should be sending an updated MOA soon.

You were copied on email 6/1/26.(attached)

Exhibit B

REPLACEMENT

MEMORANDUM OF AGREEMENT

STPD-9376-00(004) / 104384-802000
Popps Ferry Road Bridge Improvements
Biloxi, MS

This Replacement Agreement is made between the Mississippi Transportation Commission, a body Corporate of the State of Mississippi (hereinafter referred to as the "Commission"), acting by and through the duly authorized Executive Director of the Mississippi Department of Transportation ("MDOT") and City of Biloxi (hereinafter referred to as the "LPA"), for the purpose of establishing the terms under which the LPA may utilize federal funds to complete the proposed project as described below, effective as of the date of the last execution by the Commission.

WHEREAS, the Commission has oversight responsibility and authority over funds that are available for local public agency projects pursuant to Section 65-1-8 of the Mississippi Code; and

WHEREAS, the LPA intends to develop and construct Popps Ferry Road Bridge improvements; (hereinafter referred to as the "Project"), and the Commission intends to allow the LPA access to available federal funds and manage the Project under the terms and provisions of this Memorandum of Agreement; and

WHEREAS, it is anticipated that approximately $12,000,000.00 in federal funds (80% federal funds and 20% local match required) are available for the prosecution of the Project, and that the above mentioned federal funds may be rescinded if they are not obligated on or before June 30, 2027 and that the above funds are subject to normal rescissions and obligational limitations; and

WHEREAS, the LPA will be responsible for all Project costs over and above the maximum amount of federal funds allocated to the Project by the Commission, and the MDOT requires the LPA to provide the local share (local match) previously stated, plus any other non-participating costs; and

WHEREAS, the Commission and the LPA desire to set forth, by this Agreement, more fully, the agreements of the parties by which the Project will be developed and completed; and

NOW, THEREFORE, for and in consideration of the premises and agreements of the parties as hereinafter contained, the LPA and the Commission enter into this Memorandum of Agreement for the use of the currently available federal funds and any future federal funds that may be allocated to this Project, agree and covenant as follows:

ARTICLE I. DUTIES AND RESPONSIBILITIES

A. The LPA hereby agrees, contracts, covenants and binds itself to the following responsibilities, duties, terms and conditions:

1. The LPA shall immediately designate a full time employee of the LPA as the Project Director, who will serve as the person responsible for completion of all phases of the Project and

will coordinate all Project activities with the MDOT District LPA Engineer.

2. The LPA shall promptly follow the procedures set out in the latest online version of the Project Development Manual (PDM) for Local Public Agencies that are necessary for the Project including, but not limited to, project activation, reporting requirements for federal awards (including the single audit), consultant selection, necessary permits, environmental process, preliminary design, right-of-way acquisition, advertisement for and selection of a contractor, construction oversight, and project close out activities.

3. The LPA shall submit to MDOT as-built plans in electronic files as PDF and in a format that is compatible with Microstation, if requested, prior to MDOT acceptance. For bridge construction or rehabilitation projects or projects on routes funded by the Office of State Aid Road Construction (OSARC), the LPA must provide any requested documentation, or as-Built data requested by OSARC in the format found acceptable to OSARC. This must be done prior to MDOT acceptance.

4. The LPA shall be responsible for all maintenance and operation of the Project during and after completion so that the federal investment in the Project is preserved. If maintenance is not performed, as appropriate, future federal funds may be withheld for any projects in the jurisdiction of the local agency, or the Commission may seek recovery of federal funds through all available legal remedies.

5. The LPA shall follow and abide by any and all federal requirements, specifically, but not limited to, the provisions that **prohibit** retainage shall be withheld from installment payments to the construction contractor.

6. The LPA agrees that if any act or omission on the part of the LPA, its consultant or its contractor(s) causes loss of Federal funding from FHWA or any other source, or if any penalty being imposed by the United States of America or the State of Mississippi, by and through the Department of Environmental Quality, under the Clean Water Act, 33 U.S.C. § 1251, et seq. or any other provision of law, then LPA will be solely responsible for all additional fines, penalties or other costs that result from the acts or omissions of the LPA.

7. In compliance with State Law, the LPA shall pay all payments owed to Contractors and Consultants according to the terms of the respective contracts, and in all instances payments shall be made within forty-five (45) days from the day they were due and payable. MDOT reserves the right to withhold reimbursement until adequate proof of payment has been produced by the LPA.

A. Payments to railroads, their consultants or contractors, for work included in the Project, may be made by MDOT directly, at its sole discretion. Payments made by MDOT to railroads, their consultants or contractors shall come from the funds obligated for the Project.
B. At its discretion, or in the event of the LPA failing to meet audit requirements, MDOT may choose to make direct partial payments to contractors from the federal funds available for the Project. Should MDOT choose this method of payment, the LPA is in no way relieved of its responsibility to pay all amounts due under its contract that are not covered by partial payments made directly by MDOT

8. The LPA shall be solely responsible for payment of any and all funds required to complete the Project, over and above the available federal funds for the Project.

9. All contracts and subcontracts shall include a provision for compliance with The Mississippi Employment Protection Act, as codified in Sections 71-11-1 and 71-11-3 of the Mississippi Code of 1972, as amended and any rules or regulations promulgated by the Commission, the Department of Employment Security, the Department of Revenue, the Secretary of State, or the Department of Human Services in accordance with the Mississippi Administrative Procedures Law (Section 25-43-1, et seq., Mississippi Code of 1972, as amended) regarding compliance with the Act. Under this Act, the LPA and every sub-recipient or subcontractor shall register with and participate in a federal work authorization program operated by the United States Department of Homeland Security to electronically verify information of newly hired employees pursuant to the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208., Division C, Section 403(a); 8 USC, Section 1324a.

10. The LPA will be required to acknowledge MDOT and FHWA in all public relations efforts for the Project including press releases, materials for groundbreakings, ribbon cuttings or other public events and any other public information or media resources by notifying the MDOT Public Affairs Division, via telephone at 601-359-7074 or by electronic mail at comments@mdot.ms.gov. At a minimum, the following example sentence should be included:

"This project was funded (partially) by the Mississippi Department of Transportation and the Federal Highway Administration."

When appropriate, an invitation should be extended to MDOT Public Affairs for the Transportation Commissioner, MDOT Executive Director or other designee to speak at any official public ceremony for this Project.

11. The LPA agrees the Project must follow a schedule that meets MDOT guidelines, and a failure to do so may result in the funds allocated to the Project being rescinded. If the Project funds are rescinded, then the LPA may be required to refund any amounts paid unto the LPA by MDOT. The MDOT guidelines are derived from Title 23, United States Code, Section 102(b) and Title 23, Code of Federal Regulations, Part 630.112(c)(2).

12. The LPA will be required to submit to the District LPA Engineer monthly progress reports through the Notice to Proceed for construction, which shall include, but not be limited to, the work that has been completed that month and the planned work for the upcoming month. The LPA will also provide a project progress schedule that will report project milestones and the target date for the LPA's request for Advertisement Authority. These project milestones are to be updated once any milestones are missed.

13. The LPA agrees to maintain, and make available to Commission, a sufficient accounting system with proper internal controls and safeguards to prevent fraud and overpayments. The accounting system and its controls should at all times maintain adequate recording and reporting of federal funds received by the LPA. If sufficient internal controls over the LPA's federal funding are not maintained, federal funds may be withheld and future transportation projects will not be considered.

14. The LPA agrees that any planning studies prepared or produced, as part of, or in conjunction with, this Project, shall in no way obligate the Commission to any other terms or conditions other than those stated herein.

15. The LPA, being classified as a lower tier participant in federal funding, certifies, by execution of this agreement, that neither it nor those individuals or entities with which it contracts are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

16. The LPA agrees that it will require that engineering plans prepared for the construction of the Project be signed and sealed by the professional engineer assigned to the Project by the consulting engineering firm, or the LPA. Further, the LPA agrees that it is solely responsible for errors and omissions that occur during Project development or during construction, regardless of any review or oversight activity on the part of the Commission or MDOT.

17. The LPA agrees that once construction of the Project has commenced, the LPA is responsible for the Project being completed according to the plans, specifications, addenda, or supplemental agreement, as amended. The LPA acknowledges and agrees that this responsibility continues after the public funds provided through MDOT are exhausted and the provisions of paragraph 7B (page 2) will no longer apply.

18. On or before October 31 of each year from the date of this agreement until the Project is completed, the LPA must provide a report to MDOT as required by as required by code section 27-104-351 of the Mississippi Code of 1972, detailing the expenditures of state funds and the intended expenditures of state funds not spent.

19. Upon completion of projects containing bridge construction or rehabilitation, a National Bridge Inspection Standards (NBIS) compliant inspection shall be made to fully document the as-built condition of the bridge. The findings of the inspection shall be documented in an inspection report and submitted via AssetWise.

20. A load rating shall be performed to document the live load carrying capacity of each bridge after the project or projects are complete. The load rating calculations and results shall be submitted via AssetWise.

B. THE COMMISSION WILL:

1. Allow the LPA to design and construct the proposed transportation improvements provided that the design meets with Commission and FHWA approval.

2. Approve permit applications that meet with MDOT standards that are necessary to allow the LPA access to the property of the Commission for the purposes of constructing the proposed transportation improvements. The Commission may enter into an appropriate agreement in its discretion.

3. Work with the LPA, through the District LPA Engineer, during the various phases of the work with the goal of producing a project that will be acceptable to the Commission upon completion.

4. Review all submittals in a timely manner, in accordance with the PDM, to allow the Project to progress in an orderly fashion. The review and oversight conducted by the Commission does not relieve the LPA from its full responsibility for the proper design and construction of the Project.

5. During the progress of the Project, assist the LPA in obtaining reimbursements of federal funding for any project cost that is eligible for reimbursement.

6. Submit all documents to the Federal Highway Administration (FHWA) when required or requested by the FHWA.

7. At its discretion, make payments for services rendered during the preliminary engineering phase of the project to the LPA's selected Consultant (s). The payments made shall come from the federal funds obligated and will follow MDOT's direct payment procedures.

8. At its discretion, make payments to the Contractor and the LPA's selected Consultant(s) during the construction phase from the Federal funds obligated. The payments made shall come from the federal funds obligated and will follow MDOT's direct payment procedures.

ARTICLE II. GENERAL PROVISIONS

A. The Commission shall have the right to audit all accounts associated with the Project, and should there be any overpayment by the Commission to the LPA, the LPA agrees to refund any such overpayment within thirty (30) days of written notification. Should the LPA fail to reimburse the Commission, the Commission shall have the right to offset the amount due from any other funds in its possession that are due the LPA on this or any other project, current or future.

B. This Memorandum of Agreement shall be subject to termination at any time upon thirty (30) days written notice by either party. Such notice given by the LPA, shall not, however, cancel any contract made by the LPA that is to further the purpose of this agreement and that is underway at the time of termination. Any construction contract underway shall be allowed to conclude under its own terms. The LPA agrees to bear complete and total, legal and financial responsibility for any such contract. Additionally, funds may be suspended or terminated under the provisions of Section F of this Article.

C. It is understood that this is a Memorandum of Agreement and that more specific requirements for the development and construction of the transportation improvement Project are contained in the Federal Statutes, the Code of Federal Regulations, the Mississippi Code, and the Standard Operating Procedures for MDOT, and other related regulatory authorities. The LPA agrees that it will abide by all such applicable authority.

D. Should the LPA miss the obligation deadline set in this MOA, the Commission reserves the right to refuse to obligate funds for the Project.

E. The Executive Director of MDOT is authorized to withhold federal funds for the Project for failure of the LPA, its consultants, or its contractor to follow the requirements of the Mississippi Standard Specifications for Road and Bridge Construction, latest edition, or the online LPA Project Development Manual.

F. Before federal funds are terminated, the LPA will be notified in writing by the Executive Director of the conditions that make termination of funds imminent. If no effective effort has been made by the LPA, its agents, employees, contractors, or subcontractors, to correct the conditions set forth in the Director's notice, within fifteen (15) calendar days after notice is given, the Executive Director may declare the federal funds suspended for the Project and notify the LPA

accordingly. The LPA will then have forty-five (45) days in which to correct all conditions of which complaint is made. If all conditions are not corrected within forty-five (45) days, the Executive Director may declare the federal funds for the Project terminated and notify the LPA accordingly. If all conditions are corrected, within the forty-five (45) day period, the LPA will be reimbursed under the terms of this agreement, for all work satisfactorily completed during the forty-five day period.

G. In the event that circumstances call for MDOT to expend staff time and other resources to address issues on the Project, then MDOT time may be charged to the Project. Assessing charges to a project is within the sole discretion of MDOT. Any charges made will impact the amount of funds available to reimburse the LPA, and therefore the LPA's contribution to the Project may increase.

ARTICLE III. NOTICE & DESIGNATED AGENTS

A. For purposes of implementing this section and all other sections of this Agreement with regard to notice, the following individuals are herewith designated as agents for the respective parties hereto:

For Contractual Administrative Matters:

COMMISSION:
Executive Director
MDOT
P.O. Box 1850
Jackson, MS 39215-1850
Phone: 601.359.7002
Fax: 601.359.7110

LPA:
A.M. Gilich, Jr., Mayor
City of Biloxi
P.O. Box 429
Biloxi, MS 39533
Phone: 228.435.6254
Fax: 228.435.6129

For Technical Matters:

COMMISSION:
District LPA Engineer – District 6
MDOT – Chuck Starita, PE
16499-B Hwy 49
Saucier, MS 39571
Phone: 228.832.0682
Fax: 228.832.0681

LPA:
Christy LeBatard, PE
City of Biloxi
P.O. Box 429
Biloxi, MS 39533
Phone: 228.435.6269
Fax: 228.435.6129

B. All notices given hereunder shall be by U.S. Certified Mail, return receipt requested, and shall be effective only upon receipt by the addressee at the above addresses or telephone numbers.

ARTICLE IV. RELATIONSHIP OF THE PARTIES

A. The relationship of the LPA to the Commission is that of an independent contractor, and said LPA, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Commission by reason hereof. The LPA will not by reason hereof, make any claim, demand or application or for any right or privilege applicable to an officer or employee of the Commission, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

B. The Commission executes all directives and orders through the MDOT. The LPA executes all directives and orders pursuant to applicable law, policies, procedures and regulations. All notices, communications, and correspondence between the Commission and the LPA shall be directed to the designated agent shown above in Article III.

ARTICLE V. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

To the extent permitted by law, the Commission and the LPA agree that neither party nor their agents, employees, contractors or subcontractors, will be held liable for any claim, loss, damage, cost, charge or expenditure arising out of any negligent act, actions, neglect or omission caused solely by the other party, its agents, employees, contractors or subcontractors.

ARTICLE VI. MISCELLANEOUS

No modification of this Memorandum of Agreement shall be binding unless such modification shall be in writing and signed by all parties. If any provision of this Memorandum of Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Memorandum of Understanding is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

ARTICLE VII. AUTHORITY TO CONTRACT

Both parties hereto represent that they have authority to enter into this Memorandum of Agreement.

This Agreement may be executed in one or more counterparts (facsimile transmission, email or otherwise), each of which shall be an original Agreement, and all of which shall together constitute but one Agreement.

So agreed on this the _____ day of _____, 20___.

City of Biloxi

_____

A.M. Gilich, Jr., Mayor

Attested:

_____

(Appropriate clerk etc)

So agreed this the _____ day of _____, 20___.

MISSISSIPPI TRANSPORTATION COMMISSION
By and through the duly authorized
Executive Director

_____

Brad White
Executive Director
Mississippi Department of Transportation

Book _____, Page _____,