



## BOARD OF ALDERMEN REGULAR MEETING

June 06, 2023

6:00 PM

Board Room • 119 W 8th Ave, Petal MS

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### MINUTES

#### CALL TO ORDER

##### Roll Call, Invocation, Pledge of Allegiance

###### PRESENT

Mayor Tony Ducker  
Alderman Drew Brickson  
Alderman Craig Bullock  
Alderman Mike Lott  
Alderman Blake Nobles  
Alderman Gerald Steele  
Alderman Craig Strickland  
Alderman Steve Stringer

Invocation was offered by Mike Lott

Pledge of Allegiance was recited.

#### ADOPT AGENDA

Request to adopt agenda omitting #9 (1130 S Main St) from the Agenda.

Motion made by Alderman Stringer, Seconded by Alderman Bullock.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

#### CONSENT AGENDA

- Minutes
  - Public Hearing of May 2, 2023
  - Regular Meeting of May 2, 2023
  - Public Hearing of May 16, 2023
  - Regular Meeting of May 16, 2023
- Proofs of Publication
  - Ordinance 2004 (100-A2)
  - Ordinance 1985 (62-A5)
  - Public Notice - 1130 S Main St
- Revenue & Expenditures - April 2023

Motion to accept the Consent Agenda.

Motion made by Alderman Brickson, Seconded by Alderman Stringer.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

#### PUBLIC COMMENT

#### PROCLAMATIONS & RESOLUTIONS

Request to adopt Resolution naming Tony Ducker and Steve Stringer as MML 2023 Voting Delegates.

Motion made by Alderman Brickson, Seconded by Alderman Nobles.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

#### BIDS — QUOTES

#### OLD BUSINESS

#### GENERAL BUSINESS

Request to set a hearing date of July 11, 2023 @ 6:00 p.m. for the following properties:

- 208 Fairchild Dr - parking lot variance

- 408 McInnis St
- Corinth Rd - PUD

Motion made by Alderman Bullock, Seconded by Alderman Brickson.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to accept the plans and specifications and authorize advertisement for bids for Infield Turf at Robert E Russell Sports Complex.

Motion made by Alderman Stringer, Seconded by Alderman Brickson.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to accept MDEQ MCWI Agreement Modification #1

Exhibit "A"

Agreement Modification #1

Motion made by Alderman Lott, Seconded by Alderman Bullock.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to purchase a table for the Mayor's Prayer Breakfast at a cost of \$150.00.

Motion made by Alderman Stringer, Seconded by Alderman Steele.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to DENY Conditional Use for property located at 1130 S Main St, Parcel #3-030K-11-053.00 per the Planning Commission recommendation.

Omitted

Request to Deny the variance requests and special exception for property located at 102 Oakwood Dr, Parcel #3-021L-31-028.00 per the Planning Commission recommendation.

Alderman Nobles would like the Board to consider approving the variances so that the property doesn't become an abandoned building.

Mr. Tortovich is the owner of the property. He is asking for variances on lot lines, driveway, and setbacks. He has had MS Power move the power pole to allow for the driveway. He is not adding the building other than maybe a small porch for curb appeal.

Neighbor from 1010 Old Richton Rd stated that they did a wonderful job on the house at 1106 and they would love to see the property improved.

Alderman Bullock Motion to deny - withdrew motion.

Alderman Nobles made a motion to grant variances on setbacks and allowing the driveway to the right side. Denying the porch addition and variance from covered parking. Alderman Brickson seconded the motion.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland

Voting Nay: Alderman Stringer

Request to grant the variance request to allow for a new parking lot without landscape islands every 12 spaces for Petal Harvey Baptist Church located on W 7th Ave per the Planning Commission recommendation.

Motion made by Alderman Stringer, Seconded by Alderman Lott.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to grant the following variances to allow for the construction of two (2) new homes: Proposed parcel 12: Lot size variance to allow 7906.81 sf not the required 10,000 sf, rear setback of 15' instead of 20', proposed parcel 13: front setback of 15' instead of 25', rear setback of 15' instead of 20' per the Planning Commission recommendation.

Motion made by Alderman Strickland, Seconded by Alderman Stringer.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele,

Alderman Strickland, Alderman Stringer

Request to issue bond refund on Thomas Knight to Pugh Bonding in the amount of \$3,500.00 per Judge Reed.

Motion made by Alderman Stringer, Seconded by Alderman Bullock.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to hire BWH Construction to do repairs to flooring at City Hall.

Motion made by Alderman Bullock, Seconded by Alderman Stringer.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to pay Estimate #2 in the amount of \$115,847.75 to Valley Construction, LLC for Soccer Fields at Robert E Russell Sports Complex per Shows, Dearman & Waits recommendation.

Motion made by Alderman Stringer, Seconded by Alderman Nobles.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to approve the docket of claims for the month of May 2023.

Exhibit "B"

Docket

Motion made by Alderman Stringer, Seconded by Alderman Bullock.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to adjust services billed to 114 Centre Circle as follows due to a leak.

- Water - \$360.00
- Late Fee - \$53.89

Motion made by Alderman Stringer, Seconded by Alderman Bullock.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to pay Estimate 2 in the amount of \$180,899.79 to Warren Paving, Inc. for 2022 Overlay per Shows, Dearman & Waits recommendation.

Motion made by Alderman Bullock, Seconded by Alderman Brickson.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

**SEMINARS & TRAVEL**

Request to approve the following travel for Bobby Oxner in the Fire Dept.

MSTAT on June 7, 2023 at the State Fire Academy. Total cost: \$20.00

Hazmat A/O (online) June 5, 2023. Total cost: \$160.00

Basic 1001-1/11 on Aug. 21 - Oct. 12, 2023. Total cost: \$920.00

Motion made by Alderman Stringer, Seconded by Alderman Lott.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to authorize Aaron Jernigan to attend MLEOA Motorcycle Conference in D'Iberville, MS on June 4 - 9, 2023. Total cost: \$230.00

Motion made by Alderman Stringer, Seconded by Alderman Lott.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request for Shalane Davison to attend 40 hour Dispatch Certification in Mendenhall, MS on June 5-9, 2023. Total cost: \$395.00

Motion made by Alderman Stringer, Seconded by Alderman Strickland.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

#### **ORDERS & ORDINANCES**

Request to begin review period for Ordinance 1974 (15-A1) amending Article 3, Sec. 14.46 - 14.50 (Fireworks) of the Code of Ordinances.

Motion made by Alderman Nobles, Seconded by Alderman Lott.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

#### **MAYOR'S REPORT**

#### **CONSIDERATION OF COMMITTEE, COMMISSION AND BOARD MATTERS**

Request to consider the application for tax abatement for Parcel #3-022N-35-159.00 per the Planning Commission recommendation.

Motion made by Alderman Nobles, Seconded by Alderman Stringer.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

#### **LEGAL**

Executive Session - regarding the prospective purchase of land.

Request to clear the room to determine the need for executive session.

Motion made by Alderman Stringer, Seconded by Alderman Steele.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to enter into executive session to discuss the prospective purchase of land.

Motion made by Alderman Stringer, Seconded by Alderman Steele.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Request to adjourn the executive session.

Motion made by Alderman Stringer, Seconded by Alderman Steele.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Lott, Alderman Nobles, Alderman Steele, Alderman Strickland, Alderman Stringer

Alderman Stringer left during Executive Session.

Alderman Lott left during Executive Session.

No official action was taken in Executive Session.

Request to accept agreements with Attorney Chris Howdeshell and Atlas Right of Way Services for professional services regarding Matthews Branch Sidewalk Project.

#### **Exhibit "C"**

#### **Agreements**

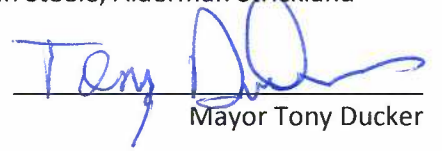
Motion made by Alderman Brickson, Seconded by Alderman Bullock

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Nobles, Alderman Steele, Alderman Strickland,

**ADJOURN**

Motion made by Alderman Nobles, Seconded by Alderman Bullock.

Voting Yea: Alderman Brickson, Alderman Bullock, Alderman Nobles, Alderman Steele, Alderman Strickland

  
\_\_\_\_\_  
Mayor Tony Ducker



  
\_\_\_\_\_  
Melissa Martin, City Clerk







City of Petal (Wendy & Lynn) Accounts Payable Status Report

Table with columns: Org Name & Lookup, Invoice Date, Invoice Number, A/P Due Date, A/P Description, Original A/P Owed, Balance Due. Rows include NEWELL PAPER CO, NOBLES AUTO PARTS, OWENS BUSINESS MACHINES, PALADIN SYSTEMS, PETAL CHAMBER OF COMMERCE, etc.

City of Petal (Wendy & Lynn) Accounts Payable Status Report

Table with columns: Org Name & Lookup, Invoice Date, Invoice Number, A/P Due Date, A/P Description, Original A/P Owed, Balance Due. Rows include THE PETAL NEWS, THE REEVES CO, VULCAN CONSTRUCTION MATERIALS, etc.

Total for Lynn Campbell Report Total: 506,109.61 506,109.61

City of Petal (Wendy & Lynn) Accounts Payable Status Report

Table with columns: Org Name & Lookup, Invoice Date, Invoice Number, A/P Due Date, A/P Description, Original A/P Owed, Balance Due. Rows include HATTIESBURG AMERICAN, HEALTH WORKS, HUNTS SOUTH AND REFINERY, HYDRA SERVICES, etc.

City of Petal (Wendy & Lynn) Accounts Payable Status Report

Table with columns: Org Name & Lookup, Invoice Date, Invoice Number, A/P Due Date, A/P Description, Original A/P Owed, Balance Due. Rows include RIVERS, JERRY, RODGERS, BILL, SACK'S, SHOWS, DEARMAN & WAITS INC, etc.

CITY OF PETAL MINUTE BOOK 39 EXHIBIT "B"



**City of Petal**  
**(Wendy & Lynn) Accounts Payable Status Report**

Org Name & Lookup	Invoice Date	Invoice Number	A/P Due Date	A/P Description	Original A/P Owed	Balance Due
<i>Lynn Campfield</i>						
HANCOCK WHITNEY BANK [19007]	5/02/2023	MS GO BOND	5/10/2023	SERIES 2016 BOND	311,175.00	311,175.00
<u>Total for Lynn Campfield</u>					<u>311,175.00</u>	<u>311,175.00</u>
Report Total:					311,175.00	311,175.00

**City of Petal**  
**(Wendy & Lynn) Accounts Payable Status Report**

Org Name & Lookup	Invoice Date	Invoice Number	A/P Due Date	A/P Description	Original A/P Owed	Balance Due
<i>Lynn Campfield</i>						
CITY OF PETAL [08750]	5/10/2023		6/09/2023	SRF LOAN REPAY SRF LOAN	3,617.53	3,617.53
<u>Total for Lynn Campfield</u>					<u>3,617.53</u>	<u>3,617.53</u>
Report Total:					3,617.53	3,617.53

**City of Petal**  
**(Wendy & Lynn) Accounts Payable Status Report**

Org Name & Lookup	Invoice Date	Invoice Number	A/P Due Date	A/P Description	Original A/P Owed	Balance Due
<i>Lynn Campfield</i>						
HANCOCK WHITNEY BANK [19007]	5/02/2023	2022 SERIES	6/10/2023	GO WATER AND SEWER 2022	120,928.65	120,928.65
HANCOCK WHITNEY BANK [19007]	5/02/2023	WATER/SEW	8/10/2023	WATER SEWER BOND	424,337.50	424,337.50
<u>Total for Lynn Campfield</u>					<u>545,266.15</u>	<u>545,266.15</u>
Report Total:					545,266.15	545,266.15

PITTMAN HOWDESHELL, PLLC

ATTORNEYS AT LAW  
MILBRANCH OFFICE PARK  
140 MAYFAIR ROAD, SUITE 400  
HATTIESBURG, MISSISSIPPI 39402

02/20/2015 (Base)  
Rev. 03/25/15

CHRISTOPHER M. HOWDESHELL

HOMER W. PITTMAN (1903-1971)

REPLY TO:  
POST OFFICE, DRAWER 13138  
HATTIESBURG, MS 39404-7138

May 16, 2023

JACK H. PITTMAN - OF COUNSEL

Telephone: 601.261.3314  
Facsimile: 601.261.3411

VIA EMAIL ONLY [cmh@pittmanhowdeshell.com](mailto:cmh@pittmanhowdeshell.com)

**REAL ESTATE SERVICE CONTRACT  
FOR CITY OF PETAL, SIDEWALK PROJECT**

*Sidewalk along South Main Street, Matthews Branch  
and East 5<sup>th</sup> Avenue, Forrest County, MS  
FORREST COUNTY MISSISSIPPI*

This CONTRACT, is made and entered into by and between the *City of Petal*, a body Politic of the State of Mississippi (the "LPA"), and *Atlas Right of Way Services* (the "CONSULTANT"), a *S-Corporation* duly registered to do business in the State of Mississippi, whose address for mailing is *6760 US Highway 98, Suite 2, Hattiesburg, MS 39402*, effective as of the date of latest execution below.

**WITNESSETH:**

WHEREAS, the LPA requires the right of way real estate services of a CONSULTANT to perform *right of way services to include appraisal and acquisition*, hereinafter called the "PROJECT", as requested by the LPA; and,

WHEREAS, the LPA desires to engage a qualified and experienced CONSULTANT to conduct said services as stated above, hereinafter called the "SERVICES"; and,

WHEREAS, the CONSULTANT has represented to the LPA that it is experienced and qualified to provide those services, and the LPA has relied upon such representation; and,

WHEREAS, the CONSULTANT herein was chosen pursuant to Mississippi Department of Transportation (hereinafter "MDOT") LPA Project Development Manual and pursuant to Federal Highway Administration ("FHWA") regulations, and found satisfactory;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration flowing unto the parties, the receipt and sufficiency of which is hereby acknowledged, the LPA and the CONSULTANT do hereby CONTRACT and agree as follows:

**ARTICLE I. GENERAL RECITALS**

CONSULTANT shall, for the agreed fees, furnish all Right of Way (ROW) services and materials required to perform the tasks described in the Scope of Work for the proposed project. In so doing, CONSULTANT shall meet the current industry standards as to general format and content and in addition thereto, any special requirements of the LPA.

The LPA, in support of the CONSULTANT, will provide the CONSULTANT a Scope of Work shown in "Exhibit 2" hereto and any other data which may be of assistance to the CONSULTANT and within the possession and control of the LPA.

Respectfully,

PITTMAN HOWDESHELL, PLLC

Christopher M. Howdeshell

CMH:bw

Manuals, guides, and specifications applicable to this CONTRACT shall be those approved and/or adopted by MDOT and in effect on the effective date of this CONTRACT, unless otherwise specified in this CONTRACT or subsequently directed by MDOT during the course of the CONTRACT. When in conflict between the Project Development Manual for LPA (PDM) and this CONTRACT, the PDM will govern.

**ARTICLE II. SCOPE AND PROCEDURE**

The CONSULTANT shall conduct the SERVICES in accordance with the General Scope of Work attached to this contract as "Exhibit 2" and made a part hereof as if fully set forth herein. The performance of the SERVICES referred to in "Exhibit 2" shall be the primary basis for measurement of performance under this CONTRACT. The LPA specifically reserves the right and privilege to enlarge or reduce the scope; or to cancel, any phase under this CONTRACT at any time. The LPA will be responsible for fees incurred up to the time of cancellation.

**ARTICLE III. CONTRACT TERM**

This CONTRACT shall commence upon the latest date of execution below and continue until the LPA issues a written **Letter of Acceptance (LOA)** at which time this CONTRACT shall absolutely and finally terminate. However, the CONSULTANT may not begin work **prior to receiving a written Notice to Proceed**.

During the term of this CONTRACT, the LPA reserves the right to terminate this CONTRACT in whole or in part, at any time, with or without cause, upon seven (7) days written notice to the CONSULTANT, notwithstanding any just claims by the CONSULTANT for payment of SERVICES rendered prior to the date of termination. The LPA shall be liable only for the costs, fees and expenses for demobilization and close out of contract, based on actual time and expenses incurred by CONSULTANT in the packaging and shipment of all documents covered by this CONTRACT to the LPA. In no event shall the LPA be liable for lost profits or other consequential damages.

**ARTICLE IV. TIME OF PERFORMANCE**

TIME IS OF THE ESSENCE IN THIS CONTRACT. The CONSULTANT shall be prepared to perform its responsibilities for providing SERVICES by the date of execution of this CONTRACT.

The CONSULTANT has submitted a proposed project schedule to the LPA which has been incorporated herein as a part of "Exhibit 2", which when approved by final execution of this CONTRACT shall control the evaluation of the CONSULTANT's progress on this PROJECT. A copy of the progress schedule, indicating the actual time expended on specific portions of this project, shall be submitted along with an estimated percentage completed with each monthly statement.

A Notice to Proceed shall be issued under authority from the LPA within 30 days after final execution of this CONTRACT. The CONSULTANT may not begin work on any feature of this PROJECT prior to receiving a Notice to Proceed from the LPA.

**ARTICLE V. RELATIONSHIP OF THE PARTIES**

The relationship of the CONSULTANT to the LPA is that of an independent contractor, and said CONSULTANT, 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 LPA. The CONSULTANT shall not make any claim, demand or application for any right or privilege applicable to an officer or employee of the LPA, 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.

All notices, communications, and correspondence between the LPA and the CONSULTANT shall be directed to the key personnel and designated agents designated in this CONTRACT.

**ARTICLE VI. COMPENSATION, BILLING & AUDIT**

**A. Cost and Fees**

If the CONSULTANT provides SERVICES hereunder, it shall be paid on a labor hour/unit cost per parcel basis as set forth in "Exhibit 3" to this CONTRACT. If the CONSULTANT provides SERVICES hereunder, the maximum amount payable under this CONTRACT for all services that are provided hereunder is the dollar amount specified in Exhibit 3 to this CONTRACT hereto by reference as fully as if copied herein in words and figures. Under no circumstances shall the LPA be liable for any amounts, including all costs which exceed the maximum dollar amount of compensation that is specified in and set forth in the Exhibit 3.

For purposes of this CONTRACT, "parcel," also referred to as a "file," is a piece of real estate, improved or unimproved, that may be acquired as part of a right of way project, or is defined by property lines, described in metes and bounds, or other acceptable legal description, and includes all interests necessary for the LPA to acquire fee simple title to the property, less any interests that the LPA may exclude. Warranty deeds, quitclaim deeds, temporary easements, or other instruments may be required from one or more holders of a possible interest in the parcel for the LPA to acquire fee simple title. Compensation shall be based on acquisition of a "parcel" or "file" and not on the number of instruments necessary for acquisition of a "parcel" or "file."

Each phase of the SERVICES, being appraisal, acquisition and relocation assistance, shall become eligible for payment following the appropriate determination by the LPA of the following:

- (1) For Appraisal fees:  
Completion of the Appraisal and acceptance of the appraisal by the LPA. "Appraisal Revisions" shall be completed at fee to be determined by the LPA which shall be based on the percent of effort relative to the initial negotiated Appraisal fee. Completion and recommended approval of the appraisal by the Project Review Appraiser and establishment of the amount believed to be just compensation by the agency official constitutes acceptance of the appraisal.
- (2) For Acquisition fees:  
For each parcel acquired by deed(s): Upon the recording of the deed and notification from the LPA, "Acquisition Revisions" or "Additional Interests"

shall be completed at fee to be determined by the LPA, which shall be based on the percent of effort relative to the initial negotiated Acquisition fee.

For each parcel which is referred to the LPA for further negotiations or filing of condemnation proceedings. Acquisition fee will be invoiced upon receipt of Right of Entry and notification from LPA. Approval of written documentation and reports required and based on the LPA determination of the time and effort expended by the CONSULTANT, but not to exceed the price of a successful acquisition by deed(s).

- (3) For Relocation Assistance fees:  
Documentation that the displaced individual(s) has/have vacated the displacement site and the Relocation Assistance file has been accepted as closed by the LPA. The LPA may choose to pay the CONSULTANT up to 50% of the stated price for that parcel once the Relocation offer has been made. The LPA may then pay the CONSULTANT the final 50% of the stated price for that parcel once the CONSULTANT completes all additional relocation and relocation assistance as deemed appropriate by the LPA.

**B. Billing (Labor Hour/Unit Cost price)**

The CONSULTANT may submit monthly progress billings based on the rates established in this CONTRACT and the time expended on the PROJECT through the end of the billing period. Each billing shall include all time and allowable expenses through the end of the billing period and should include all the supporting documentation necessary for the appropriate LPA personnel to recommend payment. Once the LPA has approved and accepted the work of the CONSULTANT, the LPA will pay the CONSULTANT any unpaid amounts of the CONTRACT total. Monthly payments will be made on the basis of a certified time record. The LPA retains the right to verify time and expense records by audit of any or all the CONSULTANT'S time and accounting records at any time during the life of the CONTRACT and up to three years thereafter.

The CONSULTANT further agrees that MDOT and/or FHWA or any other Federal Agency may audit the same records at any time during the life of the CONTRACT and up to three years thereafter, should the funding source for all or any part of this CONTRACT be funds of the United States of America.

**C. Record Retention**

The CONSULTANT shall maintain all time and expense records incurred on the PROJECT and used in support of its proposal and shall make such material available at all reasonable times during the period of the CONTRACT and for three years from the date of final payment under this CONTRACT for inspection by the LPA, and copies thereof shall be furnished upon request, at the LPA'S expense. The CONSULTANT agrees that the provisions of this Article shall be included in any CONTRACT it may make with any subcontractors, assignees or transferees.

**Real Estate Services Fee Schedule  
Sidewalk along South Main St, Matthews Branch and  
East 5<sup>th</sup> Avenue, Forrest County, MS**

**MAXIMUM ALLOWABLE COST**

The consultant shall not exceed the "Cost per Parcel" rate established for this Work Assignment identified below. The items left blank (x) are not needed at this time. If necessary, they will be added on an amended contract.

Function	Number	Cost per Parcel	Total Cost
<b>APPRAISAL PHASE</b>			
<b>Original Appraisal Report</b>			
Unimproved	9	\$ 2,985	\$ 26,865
Improved	0	\$ 0	\$ 0
Complex	0	\$ 0	\$ 0
Revised Appraisal Reports		50% of original fee	\$ 0
<b>Appraisal Reports for Court</b>			
Unimproved		\$ 2,000	\$ 0
Improved		\$ 0	\$ 0
<b>Pretrial Preparation and Trial Testimony for Court</b>			
		\$ 0	\$ 0
<b>ACQUISITION PHASE</b>			
<b>Original Acquisition of Parcels</b>			
Waiver Valuation Report	9	\$ 900	\$ 8,100
Acquisition of Unimproved Parcel	18	\$2,500	\$45,000
Acquisition of Improved Parcel	0	\$ 0	\$ 0
Acquisition of Revised Parcel (If Needed)		50% of original fee	\$ 0
<b>RELOCATION PHASE</b>			
<b>Relocation Assistance</b>			
Residential	0	\$ 0	\$ 0
Business	0	\$ 0	\$ 0
Commercial	0	\$ 0	\$ 0
Non-Profit	0	\$ 0	\$ 0
Miscellaneous Personal Property	0	\$ 0	\$ 0
<b>TOTAL DIRECT COSTS</b>			<b>\$ 0</b>
<b>TOTAL MAXIMUM ALLOWABLE COSTS</b>			<b>\$79,965</b>

\*It should be noted that the appraisal review and relocation review are separate items not included in this contract.

**ARTICLE VII. FINAL PAYMENT**

**D. Retainage**

The LPA may retain the final 5% of the CONSULTANT'S contract amount until the final payment request has been received and an audit of the total PROJECT cost to date has been completed by the LPA or its designee.

See the Right of Way Real estate fee services schedule on the following page.

The CONSULTANT agrees that acceptance of the final payment shall be in full and final settlement of all claims arising against the LPA for payment for work done, materials furnished, cost incurred, or otherwise arising out of this CONTRACT and shall release the LPA from any and all further claims for payment, whether known or unknown, for and on account of said CONTRACT, including payment for all work done, and labor and material furnished in connection with the same. Failure to perform, to the satisfaction of the LPA, all terms of this CONTRACT, which include the Scope of Work and other exhibits, any technical specifications, and special requirements of the LPA, or the CONSULTANT'S failure to perform according to the prevailing industry standards, including standards of conduct and care, format and content, shall be corrected by the CONSULTANT without additional compensation.

The CONSULTANT shall clearly indicate on its last Invoice that the Invoice is "FINAL". The LPA will confirm that the PROJECT is ready to be closed and the "FINAL" Invoice may be paid. The CONSULTANT shall submit their "FINAL" invoice no later than 45 days following termination/completion of the PROJECT.

**ARTICLE VIII. REVIEW OF WORK**

Authorized representatives of the LPA may at all reasonable times review and inspect the SERVICES under this CONTRACT hereunder or amendments thereto. Authorized representatives of the MDOT and/or FHWA may also review and inspect the SERVICES under this CONTRACT should funds of the United States of America be in any way utilized in payment for said SERVICES. Such inspection shall not make the United States of America a party to this CONTRACT, nor will MDOT and/or FHWA interfere with the rights of either party hereunder.

All reports, drawings, studies, maps and computations prepared by and for the CONSULTANT, shall be made available to authorized representatives of the LPA for inspection and review at all reasonable times in the General Offices of the LPA. Authorized representatives of the MDOT and/or FHWA may also review and inspect said reports, drawings, studies and computations prepared under this CONTRACT should funds of the United States of America be in any way utilized in payment for the same. Acceptance by the LPA shall not relieve the CONSULTANT of its contractual and professional obligation to correct, at its expense, any of its breaches, errors and/or omissions in the final version of the work.

The CONSULTANT shall be responsible for performance of and compliance with all terms of this CONTRACT, including the Scope of Work and other exhibits, and including any technical specifications and special requirements of the LPA, to the satisfaction of the LPA, and shall be responsible for errors and/or omissions, including those as to conduct and care, format and content, for all aspects of the CONTRACT, and including professional quality and technical accuracy of all designs, drawings, specifications, and other services furnished by the CONSULTANT.

Failure to comply with any terms of this CONTRACT shall be corrected by the CONSULTANT without additional compensation.

If any breach of CONTRACT, is discovered by LPA personnel after final acceptance of the work by the LPA, then the CONSULTANT shall, without additional compensation, cure any

deficiency or breach including errors and/or omissions in designs, plans, drawings, specifications, or other services.

In the event that the project schedule requires that a breach of this CONTRACT be corrected by someone other than the CONSULTANT then the actual costs incurred by the LPA for such corrections shall be the responsibility of the CONSULTANT. The LPA shall give the CONSULTANT an opportunity to correct said breach unless (1) the LPA determines, in its sole discretion, that the CONSULTANT cannot cure the breach within the schedule established by the LPA, or (2) the LPA determines, in its sole discretion, that the CONSULTANT cannot cure the breach to the satisfaction of the LPA.

In the event that the CONSULTANT breaches this CONTRACT, and the breaches of the CONSULTANT are discovered during the construction phase, then an accounting of all costs incurred by the LPA resulting from such breach, including errors and/or omissions, will be made and such amount will be recovered from the CONSULTANT.

#### ARTICLE IX. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

The CONSULTANT shall indemnify, defend and hold harmless the LPA and all its officers, agents and employees from any claim, loss, damage, cost, charge or expense, including attorney fees, to the extent caused by any negligent act, actions, neglect or omission by the CONSULTANT, its agents, employees, or subconsultants during the performance of this CONTRACT, whether direct or indirect, and whether to any person or property for which LPA or said parties may be subject, except that neither the CONSULTANT nor any of his agents or subconsultants will be liable under this provision for damages arising out of the injury or damage to persons or property to the extent caused by or resulting from the negligence of the LPA or any of its officers, agents or employees.

The CONSULTANT'S obligations under this Article, including the obligations to indemnify, defend, hold harmless, pay reasonable attorney fees or, at the LPA'S option, participate and associate with the LPA in the defense and trial or arbitration of any damage claim, lien or suit and any related settlement negotiations, shall be initiated by the LPA'S notice of claim for indemnification to the CONSULTANT. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the LPA entirely responsible shall excuse performance of this provision by the CONSULTANT.

In conjunction herewith, the LPA agrees to notify the CONSULTANT in writing as soon as practicable after receipt or notice of any claim involving the CONSULTANT. These indemnities shall not be limited by reason of the listing of any insurance coverage below.

#### ARTICLE X. INSURANCE

Prior to beginning any work under this CONTRACT, the CONSULTANT shall obtain and furnish certificates to the LPA for the following minimum amounts of insurance:

A. Workers' Compensation Insurance in accordance with the laws of the State of Mississippi.

required coverage, conditions and limits are in full force and effect. Such certificate shall identify this CONTRACT and contain provisions that coverage afforded under the policies will not be cancelled, terminated, or materially altered until at least thirty (30) days prior written notice has been given to the LPA.

The CONSULTANT will furnish certified copies, upon request, of any or all of the policies and/or endorsements to the LPA prior to the execution of the CONTRACT and thereafter on an annual basis for the duration of the PROJECT.

The CONSULTANT shall provide the LPA any and all documentation necessary to prove compliance with the insurance requirements of this CONTRACT as such documentation is requested, from time to time, by the LPA.

If the CONSULTANT fails to procure or maintain required insurance, the LPA may immediately elect to terminate this CONTRACT or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the LPA shall be repaid by the CONSULTANT to the LPA upon demand, or the LPA may offset the cost of the premiums against any monies due to the CONSULTANT from the LPA.

#### ARTICLE XI. COVENANT AGAINST CONTINGENT FEES AND LOBBYING

The CONSULTANT shall comply with the relevant requirements of all federal, state or local laws. The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this CONTRACT, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, LPA, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this CONTRACT. The CONSULTANT warrants that it shall not contribute any money, gift or gratuity of any kind, either directly or indirectly to any employee of the LPA, or to any employee of the MDOT. For breach or violation of this warranty, the LPA shall have the right to annul this CONTRACT without liability, and the CONSULTANT shall forfeit any sums due hereunder at the time of such breach and may be barred from performing any future services for the LPA or participating in any future contracts with the LPA.

#### ARTICLE XII. EMPLOYMENT OF LPA'S PERSONNEL

The CONSULTANT shall not employ any person or persons in the employ of the LPA for any work required by the terms of this CONTRACT, without the written permission of the LPA, except as may otherwise be provided for herein.

#### ARTICLE XIII. MODIFICATION

If, prior to the satisfactory completion of the SERVICES under this CONTRACT, the LPA materially alters the scope, character, complexity or duration of the SERVICES from those required under this CONTRACT, a supplemental agreement may be executed between the parties, and shall be submitted to MDOT for concurrence. Also, a supplemental agreement may be executed between the parties in the event that both parties agree the CONSULTANT'S compensation should be increased due to an unanticipated increase in the nature, scope or amount of work necessary to

- B. Public Liability Insurance in an amount not less than one million dollars (\$1,000,000.00) on account of any one occurrence.
- C. Property Damage Insurance in an amount not less than five hundred thousand dollars (\$500,000.00) from damages on account of any one occurrence, with an aggregate limit of not less than one million dollars (\$1,000,000.00).
- D. Valuable Documents Insurance, whether as a part of the property damage insurance referenced above or as separate insurance, in an amount sufficient to cover all costs associated with repairing, restoring or replacing any documents kept or created by Consultant as a part of the Services, in the event of casualty to, or loss or theft of such documents.
- E. Errors and Omissions Insurance, in an amount not less than one million dollars (\$1,000,000.00) per incident; one million dollars (\$1,000,000.00) aggregate.
- F. Comprehensive Automobile Liability Insurance, with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) per incident with respect to CONSULTANT'S (owned, hired or non-owned) vehicles, assigned to or used in the performance of services.

The LPA shall be listed as a certificate holder of insurance on any of the insurance required under this CONTRACT.

In the event that the CONSULTANT retains any subconsultant or other personnel to perform SERVICES or carry out any activities under or incident to work on any phase of this CONTRACT, the CONSULTANT agrees to obtain from said subconsultant or other personnel, certificates of insurance demonstrating that said subconsultant or other personnel has sufficient coverage, or CONSULTANT agrees to include said subconsultant or other personnel within the CONSULTANT'S coverage for the duration of this CONTRACT or phase for which said subconsultant or other personnel is employed.

The Insurance coverage recited above shall be maintained in full force and effect by the CONSULTANT during the life of this CONTRACT. Should CONSULTANT cease to carry the errors and/or omissions coverage listed above for any reason, it shall obtain "tail" or extended coverage at the same limits for a period of not less than three (3) years subsequent to policy termination or contract termination, whichever is longer. Should CONSULTANT change insurance carriers for errors and/or coverage, it shall obtain a "retroactive coverage" endorsement from its new insurance carrier."

Insurance carriers must be properly licensed and/or must hold a Certificate of Authority from the Mississippi Department of Insurance.

A certificate of insurance acceptable to the LPA shall be issued to the LPA by the CONSULTANT prior to the execution of the CONTRACT by the CONSULTANT and thereafter on an annual basis for the duration of the CONTRACT as evidence that policies providing the

properly provide the SERVICES required on any particular phase of the CONTRACT begun hereunder

Oral agreements or conversations with the LPA, any individual member of the LPA, officer, agent, or employee of MDOT, either before or after execution of this CONTRACT, shall not affect or modify any of the terms or obligations contained in this CONTRACT. All modifications to this CONTRACT, amendments or addenda thereto must be submitted in writing and signed by the parties thereto before the modifications, amendments, or addenda become effective.

The CONSULTANT **MAY NOT** begin work on any modifications, amendments, or addenda prior to receiving a Notice to Proceed.

Minor changes in the proposal which do not involve changes in the maximum not to exceed amount of the contract, extensions of time (except extensions of deadlines as specifically set forth under Article III) or changes in the goals and objectives of this CONTRACT may be made by written notification of such change by either the LPA or the CONSULTANT to the other party, and shall become effective upon written acceptance thereof (i.e. letter agreement).

#### ARTICLE XIV. SUBLETTING, ASSIGNMENT OR TRANSFER

It is understood by the parties to this CONTRACT that the work of the CONSULTANT is considered personal by the LPA. The CONSULTANT shall not assign, subcontract, sublet or transfer any or all of its interest in this CONTRACT without prior written approval of the LPA. Under no condition will the CONSULTANT be allowed to sublet or subcontract more than 60% of the work required under this CONTRACT. It is clearly understood and agreed that specific phases of the work may be sublet or subcontracted in their entirety provided that the CONSULTANT performs at least 40% of the overall CONTRACT with its own forces.

It should be noted that the entire appraisal phase will be subcontracted to Collins and Null appraisals.

Consent by the LPA to any subcontract shall not relieve the CONSULTANT from any of its obligations hereunder, and the CONSULTANT is required to maintain final management responsibility with regard to any such subcontract.

The LPA reserves the right to review all subcontracts documents prepared in connection with this CONTRACT, and the CONSULTANT agrees that it shall submit to the LPA any proposed subcontract document together with subconsultant cost estimates for review and written concurrence of the LPA in advance of their execution.

The CONSULTANT shall make prompt payment to all subconsultants no later than 15 days from receipt of each payment the LPA makes to the CONSULTANT. Each month, the CONSULTANT shall submit OCR-484-C, found on MDOT's website to the LPA along with the Invoice. This form certifies payments to all Subconsultants and shows all firms even if the CONSULTANT has paid no monies to the firm during that estimate period (negative report).

**ARTICLE XV. OWNERSHIP OF PRODUCTS AND DOCUMENTS AND WORK MADE FOR HIRE**

The CONSULTANT agrees that all reports, documents, computer information and access, software, drawings, studies, notes, maps and other data and products, prepared by and for the LPA under the terms of this CONTRACT shall become and remain the property of the LPA upon creation and all be delivered to the LPA upon termination or completion of work, or upon request of the LPA, regardless of any claim or dispute between the parties. All such data and products shall be delivered within thirty (30) days of receipt of a written request by the LPA.

The CONSULTANT and the LPA intend and agree that this CONTRACT to be a contract for services and each party considers the products and results of the services to be rendered by the CONSULTANT hereunder, including any and all material produced and/or delivered under this CONTRACT (the "Work"), to be a "work made for hire" under U.S. copyright and all applicable laws. The CONSULTANT acknowledges and agrees that the LPA owns all right, title, and interest in and to the Work including, without limitation, the copyright thereto and all trademark, patent, and all intellectual property rights thereto.

If for any reason the Work would not be considered a work made for hire under applicable law, or in the event this CONTRACT is determined to be other than a contract or agreement for a work made for hire, the CONSULTANT does hereby transfer and assign to the LPA, and its successors and assigns, the entire right, title, and interest in and to any Work prepared hereunder including, without limitation, the following: the copyright and all trademark, patent, and all intellectual property rights in the Work and any registrations and copyright, and/or all other intellectual property, applications relating thereto and any renewals and extensions thereof; all works based upon, derived from, or incorporating the Work; all income, royalties, damages, claims, and payments now or hereafter due or payable with respect thereto; all causes of action, either in law or in equity, for past, present, or future infringement based on the copyrights and/or all other intellectual property; all rights, including all rights to claim priority, corresponding to the foregoing in the United States and its territorial possessions and in all foreign countries. The CONSULTANT agrees to execute all papers and perform such other proper acts as the LPA may deem necessary to secure for the LPA or its designee the rights herein assigned.

The LPA may, without any notice or obligation of further compensation to the CONSULTANT, publish, re-publish, anthologize, use, disseminate, license, or sell the Work in any format or medium now known or hereafter invented or devised. The LPA'S rights shall include, without limitation, the rights to publish, re-publish, or license a third party to publish, re-publish, or sell the Work in print, on the World Wide Web, or in any other electronic or digital format or database now known or hereafter invented or devised, as a separate isolated work or as part of a compilation or other collective work, including a work different in form from the first publication, and to include or license a third party to include the Work in an electronic or digital database or any other medium or format now known or hereafter invented or devised.

The CONSULTANT shall obtain any and all right, title, and interest to all input and/or material from any third party subconsultant, or any other party, who may provide such input and/or material to any portion of the Work so that said right, title, and interest, and all such interest in and to

the Work including, without limitation, the copyright thereto and all trademark, patent, and all intellectual property rights thereto, shall belong to the LPA.

For any intellectual property rights currently owned by third parties or by the CONSULTANT and not subject to the terms of this CONTRACT, the CONSULTANT agrees that it will obtain or grant royalty-free, nonexclusive, irrevocable license(s) for or to the LPA at no cost to the LPA to use all copyrighted or copyrightable work(s) and all other intellectual property which is incorporated in the material furnished under this CONTRACT. Further, the CONSULTANT warrants and represents to the LPA that it has obtained or granted any and all such licensing prior to presentation of any Work to the LPA under this CONTRACT. This obligation of the CONSULTANT does not apply to a situation involving a third party who enters a license agreement directly with the LPA.

The CONSULTANT warrants and represents that it has not previously licensed the Work in whole or in part to any third party and that use of the Work in whole or in part will not violate any rights of any kind or nature whatsoever of any third party. The CONSULTANT agrees to indemnify and hold harmless the LPA, its successors, assigns and assignees, and its respective officers, directors, agents and employees, from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees), arising out of or in any way connected with any breach of any representation or warranty made by CONSULTANT herein.

**ARTICLE XVI. PUBLICATION AND PUBLICITY**

The CONSULTANT agrees that it shall not for any reason whatsoever communicate to any third party in any manner whatsoever concerning any of its CONTRACT work product, its conduct under the CONTRACT, the results or data gathered or processed under this CONTRACT, which includes, but is not limited to, reports, computer information and access, drawings, studies, notes, maps and other data prepared by and for the CONSULTANT under the terms of this CONTRACT, without prior written approval from the LPA, unless such release or disclosure is required by judicial proceeding. The CONSULTANT agrees that it shall immediately refer any third party who requests such information to the LPA and shall also report to the LPA any such third party inquiry. This Article shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the CONSULTANT from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the CONSULTANT to defend itself from any suit or claim.

All approved releases of information, findings, and recommendations shall include a disclaimer provision and all published reports shall include that disclaimer on the cover and title page in the following form:

*The opinions, findings, and conclusions in this publication are those of the author(s) and not necessarily those of the Local Public Agency, Mississippi Department of Transportation, Mississippi Transportation Commission, the State of Mississippi, or the Federal Highway Administration.*

**ARTICLE XVII. CONTRACT DISPUTES**

This CONTRACT shall be deemed to have been executed in Forrest County, Mississippi, and all questions including but not limited to questions of interpretation, construction and performance shall be governed by the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect to this CONTRACT shall be brought in a court of competent jurisdiction in Forrest County, State of Mississippi. The CONSULTANT expressly agrees that under no circumstances shall the LPA be obligated to or responsible for payment of an attorney's fee for the cost of legal action to or on behalf of the CONSULTANT.

**ARTICLE XVIII. COMPLIANCE WITH APPLICABLE LAW**

- A. The undersigned certify that to the best of their knowledge and belief, the foregoing is in compliance with all applicable laws.
- B. The CONSULTANT shall observe and comply with all applicable federal, state, and local laws, rules and regulations, policies and procedures, ordinances, and orders and decrees of bodies or tribunals of the United States of America or any agency thereof, the State of Mississippi or any agency thereof, and any local governments or political subdivisions, that are in effect at the time of the execution of this CONTRACT or that may later become effective.
- C. The CONSULTANT shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this CONTRACT because of race, creed, color, sex, national origin, age or disability.
- D. IT IS FURTHER SPECIFICALLY AGREED that the CONSULTANT shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and all other applicable federal regulations as stated in "Exhibit 5" which is incorporated herein by reference.
- E. The CONSULTANT shall comply with the provisions set forth in Department of Transportation regulations, Uniform Administrative Requirements for Grants and Cooperative Agreements, 49 CFR, Part 18, (as amended) in its administration of this CONTRACT or any subcontract resulting here from.

The CONSULTANT shall abide by the provisions of the U.S. Department of Transportation regulations on Disadvantaged Business Enterprises, 49 CFR Part 26 (as amended), and include the certification made in "Exhibit 5" to this CONTRACT in any and all subcontracts which may result from this CONTRACT.

- G. The CONSULTANT shall comply and shall require its subconsultants to comply with Code of Federal Regulations CFR 23 Part 634 - Worker Visibility - as stated in "Exhibit 5".
- H. IMMIGRANT STATUS CERTIFICATION. The CONSULTANT represents that it is in compliance with the Immigration Reform and Control Act of 1986 (Public Law 99-603), as amended, in relation to all employees performing work in the State of Mississippi and does

not knowingly employ persons in violation of the United States immigration laws. The CONSULTANT further represents that it is registered and participating in the Department of Homeland Security's E-Verify™ employment eligibility verification program, or successor thereto, and will maintain records of compliance with the Mississippi Employment Protection Act including, but not limited to, requiring compliance certification from all subcontractors and vendors who will participate in the performance of this Agreement and maintaining such certifications for inspection if requested. The CONSULTANT acknowledges that violation may result in the following: (a) cancellation of any public contract and ineligibility for any public contract for up to three (3) years, or (b) the loss of any license, permit, certification or other document granted by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. The CONSULTANT also acknowledges liability for any additional costs incurred by the LPA due to such contract cancellation or loss of license or permit. The CONSULTANT is required to provide the certification on Exhibit 9 in this CONTRACT to the LPA verifying that the CONSULTANT and subconsultant(s) are registered and participating in E-Verify prior to execution of this CONTRACT.

- I. The covenants herein shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

**ARTICLE XIX. WAIVER**

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time, or of any other provision hereof, nor shall it be construed to be a modification of the terms of this CONTRACT.

**ARTICLE XX. SEVERABILITY**

If any terms or provisions of this CONTRACT are prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this CONTRACT shall not be affected thereby and each term and provision of this CONTRACT shall be valid and enforceable to the fullest extent permitted by law.

**ARTICLE XXI. ENTIRE AGREEMENT**

This CONTRACT constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings, and agreements, written or oral, between the parties relating thereto.

**ARTICLE XXII. CONFLICT OF INTEREST**

The CONSULTANT covenants that no public or private interests exist and none shall be acquired directly or indirectly which would conflict in any manner with the performance of the CONSULTANT'S CONTRACT. The CONSULTANT further covenants that no employee of the CONSULTANT or of any subconsultant(s), regardless of his/her position, is to personally benefit directly or indirectly from the performance of the SERVICES or from any knowledge obtained during the CONSULTANT'S execution of this CONTRACT.

**ARTICLE XXIII. AVAILABILITY OF FUNDS**

It is expressly understood and agreed that the obligation of the LPA to proceed under this CONTRACT is conditioned upon the availability of funds, the appropriation of funds by the Mississippi Legislature, and the receipt of state and/or federal funds. If, at any time, the funds anticipated for the fulfillment of this CONTRACT are not forthcoming or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to the LPA for the performance of this CONTRACT, the LPA shall have the right, upon written notice to the CONSULTANT, to immediately terminate or stop work on this CONTRACT without damage, penalty, cost, or expense to the LPA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

**ARTICLE XXIV. STOP WORK ORDER**

A. **Order to Stop Work.** The LPA may, by written order to the CONSULTANT at any time, and without notice to any surety, require the CONSULTANT to stop all or any part of the work called for by this CONTRACT. This order shall be for a specified period not exceeding twenty-four (24) months after the order is delivered to the CONSULTANT unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the CONSULTANT shall forthwith comply with its terms and take all steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the LPA shall either:

- (1) cancel the stop work order; or
- (2) terminate the work covered by such order according to and as provided in Article III of this CONTRACT.

Prior to the LPA'S taking official action to stop work under this CONTRACT, the LPA may notify the CONSULTANT, in writing, of the LPA'S intentions to ask the CONSULTANT to stop work under this CONTRACT. Upon notice from the LPA, the CONSULTANT shall suspend all activities under this CONTRACT, pending final action by the LPA.

B. **Cancellation or Expiration of the Order.** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONSULTANT shall have the right to resume work. If the LPA decides that it is justified, an appropriate adjustment may be made in the delivery schedule. If the stop work order results in an increase in the time required for or in the CONSULTANT'S cost properly allocable to the performance of any part of this CONTRACT and the CONSULTANT asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage, an equitable adjustment in this CONTRACT may be made by written modification of this CONTRACT as provided by the terms of this CONTRACT.

C. **Termination of Stopped Work.** If a stop work order is not canceled and the work covered by such order is terminated, the CONSULTANT may be paid for services rendered prior to the Termination. In addition to payment for services rendered prior to the date of termination, the LPA shall be liable only for the costs, fees, and expenses for demobilization and close out of this CONTRACT, based on actual time and expenses incurred by the CONSULTANT in the packaging and shipment of all documents covered by this CONTRACT to the LPA. In no event shall the LPA be liable for lost profits or other consequential damages.

**ARTICLE XXV. KEY PERSONNEL & DESIGNATED AGENTS**

The CONSULTANT agrees that Key Personnel identified as assigned to phases hereunder as set forth in this CONTRACT, shall not be changed or reassigned without prior approval of the LPA or, if prior approval is impossible, and then notice to the LPA and subsequent review by the LPA which may approve or disapprove the action. For purposes of implementing this section and all other sections of this CONTRACT with regard to notice, the following individuals are herewith designated as agents for the respective parties:

**LPA:**  
For Contractual Matters:  
Rocky Eaton  
City Attorney  
PO Box 1646  
Hattiesburg, MS 39401  
Telephone: 601-336-6456  
E-Mail: reaton@tef-law.com

For Technical Matters:  
John Weeks, PE  
Shows, Dearman & Waits  
301 2<sup>nd</sup> Avenue  
Hattiesburg, MS 39401  
Telephone: 601-544-1821  
Facsimile:  
E-Mail: john@sd-w.com

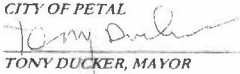
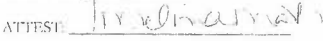
**CONSULTANT:**  
For Contractual Matters:  
Jonathon Null  
Project Manager/President  
6760 US Hwy 98, Ste 2  
Hattiesburg, MS 39402  
Telephone: 601-271-9044  
Facsimile: 601-271-9099  
E-Mail: bj@atlasrighofway.com

For Technical Matters:  
Jonathon Null  
Project Manager/President  
6760 US Hwy 98, Ste 2  
Hattiesburg, MS 39402  
Telephone: 601-271-9044  
Facsimile: 601-271-9099  
E-Mail: bj@atlasrighofway.com

**ARTICLE XXVI. AUTHORIZATION**

Both parties hereto represent that they have authority to enter into this CONTRACT and that the individuals executing this CONTRACT are authorized to execute it and bind their respective parties and certified copies of the applicable LPA Order and the Resolution of the Corporate Board of Directors of the CONSULTANT are attached hereto as "Exhibit 1" and incorporated herein by reference and made a part hereof as if fully copied herein in words and figures.

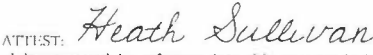
WITNESS this my signature in execution hereof, this the 20 day of June, 2023

**CITY OF PETAL**  
  
\_\_\_\_\_  
**TONY DUCKER, MAYOR**  
ATTEST:   
\_\_\_\_\_

WITNESS this my signature in execution hereof, this the 20 day of June, 2023

**ATLAS RIGHT OF WAY SERVICES**

BY:   
\_\_\_\_\_  
**JONATHAN NULL**

ATTEST:   
\_\_\_\_\_

Exhibits attached hereto and incorporated by reference into this contract include those identified on the attached page entitled "List of Exhibits".

**LIST OF EXHIBITS**

- 1. Evidence of Authority
- 2. General Scope of Work and Common Specifications
- 3. Fees and Expenses
- 4. Sample Invoice
- 5. Notice to the CONSULTANT
- 6. The CONSULTANT'S Certificate Regarding Debarment, Suspension and Other Responsibility Matters
- 7. Certification of LPA
- 8. {This Exhibit was intentionally left blank}
- 9. Prime Consultant / Contractor BEV Certification and Agreement

EXHIBIT 1

{{{Attach a copy of authority to execute contracts on behalf of the LPA}}}

{{{Attach a copy of authority to execute contracts on behalf of the Consultant Corporation here}}}

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APPRAISAL SCOPE OF WORK

General

After written authorization has been received by the LPA from the MDOT LPA District Coordinator, but prior to the initiation of negotiations on any parcel of property on the Project, the CONSULTANT shall prepare real property appraisal reports in accordance with this contract and all applicable rules, regulations and laws including, without limitations, including the following:

1. The Uniform Standards of Professional Appraisal Practice, (USPAP);
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §4601 and Regulations promulgated pursuant thereto at 49 CFR Part 24;
3. Mississippi law applicable to governmental acquisition appraisal;
4. The appraiser must be a Licensed Real Estate Appraiser in good standing with the Mississippi Real Estate Appraiser License and Certification Board and should have a minimum of two (2) years' experience in appraisal for the purpose of the acquisition of right of way, or shall at a minimum conform to the requirements of 24, 103 (d)(1)(2) of 49 CFR 24 of the Uniform Act;
5. All appraisal reports shall be completed in a format materially equivalent to the MDOT Appraisal Report forms; and
6. If the MDOT Appraisal Report Forms are used, all references to MDOT must be edited to replace MDOT with the name of the LPA.

Definitions

CONSULTANT – The person, firm or company, including any sub-consultants hired by the CONSULTANT, that has been contracted by the LPA to perform any of the real estate services defined in the scope of work to this contract.

APPRAISER OF RECORD – The appraiser who is a licensed certified general real estate appraiser with experience in appraising real estate and interests in real property for the purpose of right of way acquisition and develops and reports the appraisals for each parcel on the project.

REVIEW APPRAISER – The Review Appraiser for the project, either performing as an employee of the LPA or hired by the LPA by contract. The Review Appraiser shall be a licensed certified general real estate appraiser with a minimum of six (6) years of experience in appraising and/or appraisal review of real estate and interests in real property for the purpose of right of way acquisition.

RECOMMENDED APPRAISAL – Review Appraisers under contract by the LPA to perform appraisal review services are only authorized to "recommend" an appraisal report to the LPA as the basis for the amount believed to be as just compensation. An authorized official of the LPA shall utilize the "Recommended Appraisal" to establish the amount believed to be just compensation.

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EXHIBIT 2

Right of Way Real Estate Services

Scopes of Work

*Sidewalk along South Main St., Matthews Branch  
And East 5<sup>th</sup> Avenue, Forrest County, MS*

General

The scope of work under this Right of Way Real Estate Services Contract identifies the real estate services that may be requested from the CONSULTANT under this contract. The services are described in the following pages and may include either some or all of the following list of services:

1. Appraisal
2. Acquisition
3. Relocation

The services performed under this contract shall be performed by the CONSULTANT on behalf of the LPA in accordance with the terms and conditions of the Contract. The specific scope of work and services requested under this contract will depend on the specific requirements of the project. The CONSULTANT shall only perform the scope of work identified in the following pages for the Project with prior authorization and notice to proceed from the LPA. Any services performed under this contract shall conform to state and federal laws and regulations to include, but not limited to, Federal Regulations 49 CFR 24. The services performed shall also be in accordance with the Project Progress Schedule attached to this Scope of Work. (See Exhibit A).

For brevity throughout the following paragraphs, references to the Local Public Agency "LPA" shall refer to CITY OF PETAL, "MDOT" shall refer to Mississippi Department of Transportation and "CONSULTANT" shall refer to the consultant hired by the LPA to perform the real estate services under this contract.

For specific policies and procedures regarding the ROW process to be followed during any of the listed ROW services, the CONSULTANT shall refer to the current Excerpt Sections MDOT Right of Way Operations Manual. For use as a guide by LPAs in Mississippi as a guide.

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ACCEPTED APPRAISAL – Meets all requirements, but not selected as recommended.

NOT ACCEPTED APPRAISAL – Does not meet all requirements and is not selected as accepted, or recommended.

Appraisal Meeting

Before beginning developing or reporting of any appraisal work, the CONSULTANT (including any sub-consultants) and the Review Appraiser shall meet jointly with the LPA to discuss project plans, Right of Way procedures and the appraisal scope of work. At the meeting, the type of appraisal reports (Final Before and After of Improved Property, Land, and Short Form appraisal reports), parcels that may qualify for use of waiver valuations, and the need for specialty reports will be discussed. At this meeting the LPA shall provide to the CONSULTANT the following:

1. Right of Way Acquisition Map(s);
2. Deeds (Conveyance instruments);
3. Derailment of title on all parcel interests;
4. One set of ROW plans; and
5. Other pertinent information about the project.

Appraisal Development and Reporting

Once the MDOT LPA District Coordinator has issued written authorization to begin the acquisition process, the Review Appraiser has accepted the Project Sales Brochure and the LPA has issued notice to proceed to the CONSULTANT, the CONSULTANT may begin the appraisal development and reporting. The CONSULTANT shall develop a fully documented real property appraisal report on each parcel of property for the Project, and in so doing shall make a personal inspection of each parcel appraised.

Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in 24,102(c)(2), and the CONSULTANT shall notify the owner in writing of the LPA's interest in acquiring the real property and the basic protections provided to the owner by law and shall offer in writing to the property owner(s) or the property owner(s)' designated representative an opportunity to accompany the appraiser on the inspection of the property, in compliance with 49 CFR 24.102(c)(1). This offer to accompany the appraiser must be documented in the appraisal report. The CONSULTANT shall provide the owner with the following:

1. Owner-Appraiser Contact Letter;
2. Highlighted copy of the ROW Acquisition Map; and
3. Citizen's Right of Way Acquisition Guide.

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Each notification provided to the property owner or occupant shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in the LPA files in compliance with 49 CFR 24.5.

A fully documented real property appraisal report shall be considered to be the value of all compensable interests under the laws of the State of Mississippi, including the before and after rule, pertaining to the same parcel. In addition to the fee simple interest, this is to include all leasehold and leased fee interests, permanent easements, access rights, unencumbered remainders, (remainders), temporary easements, and any other interest in the real property, excluding utility easements.

As mentioned above, the CONSULTANT shall prepare real property appraisal reports in accordance with this contract and all applicable rules, regulations and laws, including the Uniform Act Regulations found in 49 CFR 24. Therefore, Appraisal Reports developed and reported as part of this scope of work shall, at a minimum, meet the following requirements as defined in 49 CFR 24.103.

1. An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property. (See *appendix A, §24.103(a)(1)*.)
2. All relevant and reliable approaches to value consistent with established Federal and federally-assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. (See *appendix A, §24.103(a)(1)*.)
3. A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
4. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate. And,
5. The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

The per-parcel appraisal fee (See *Exhibit 3, Real Estate Services Fee Schedule*) agreed to and made a part of the Real Estate Service Contract for the LPA shall include any and all expenses necessary for, and related to, completion of the Project Sales Brochure, the appraisal development and reporting, for the parcel, including, but not being limited to, timber cruises, cost-to-cure quotes, and cost-new estimates and, upon request by the LPA, any time required to attend conferences for the purpose of discussing certain aspects of the appraisal report, not to include time and expense for eminent domain purposes. The LPA shall approve payment of appraisal reports for each parcel appraised upon review and acceptance or recommended approval of the appraisal report from the Review Appraiser.

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All requests by the CONSULTANT for a Specialty Report shall have the concurrence of the Review Appraiser and shall be subject to approval by the LPA. If it is determined by the LPA that a Specialty Report is necessary, then the LPA shall enter into a Specialty Report Agreement with a professional service provider to prepare the Specialty Report.

A "Specialty Report" is defined as a written report impartially and independently prepared by a qualified specialist setting forth an opinion of the valuation of specialty items to be used as data in or as a component part of an appraisal report. Examples of a specialty report may be a feasibility study or a report from a professional landscape architect to estimate the cost-to-cure damages to a golf course or from a professional engineer to provide a report on the cost of developing a subdivision of real estate.

Upon the completion of appraisal report(s), the CONSULTANT shall deliver one (1) hard copy and/or one (1) electronic copy of each appraisal report to the LPA. The LPA shall transmit all appraisal report(s) to the project Review Appraiser. The LPA will approve payment of the appraisal report(s) upon review, and acceptance or recommended approval from the Review Appraiser.

#### Revised Appraisal Reports and Project Sales Brochure

The LPA will review any and all revisions to the Right of Way Acquisition Maps and Deeds and in consultation with the Review Appraiser will determine if the revision will require a revised appraisal of the parcel. If it is determined that a revised appraisal report is necessary, the CONSULTANT will develop and report a revised appraisal. If the CONSULTANT initiates the request for revision to the Right of Way Plans and maps and deeds, the request must be made to the LPA and have the concurrence of the Review Appraiser. All appraisals shall be completed in accordance with the requirements above for appraisals.

Upon completion of the revised appraisal report(s), the CONSULTANT shall deliver to the LPA one (1) hard copy of the appraisal report and/or one (1) electronic copy. The LPA will transmit all revised appraisal report(s) to the project Review Appraiser.

If the revised appraisal report resulted in any changes or additions to the Project Sales Brochure, the CONSULTANT shall be responsible for including the new and/or revised sale record(s) to the LPA and the Review Appraiser. All revised appraisal report(s) shall be reviewed, accepted or recommended, by the Review Appraiser prior to any establishment of just compensation being made by the LPA. The LPA will approve payment of the revised appraisal report(s) upon review, acceptance and recommended approval from the Review Appraiser.

#### Preparation of Appraisals for Court Testimony

The following services may be included in the scope of work for this contract and in compensation covered under this contract. If the following services are required under the scope of work for this contract, the services shall be considered part of this contract and shall be commenced upon written authorization from the LPA at the time they are needed in accordance with the compensation agreed to in the fee schedule contained within the Real Estate Service Contract for LPAs in Mississippi.

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If the preparation of appraisals for court testimony and attendance at pre-trial conferences or trial testimony or other court proceedings relating to the acquisition of the right of way for the Project are NOT covered by this Contract (or the compensation to the CONSULTANT under this Contract), the services may be considered as "Additional Services" for all purposes and the fees for "Additional Services" shall be negotiated and agreed to at the rates provided within the Real Estate Service Contract for LPAs in Mississippi by a Supplemental Agreement to this Contract prior to the rendering of such "Additional Services"

In the event of condemnation proceedings, the LPA shall direct the CONSULTANT to prepare appraisal(s) for court testimony. The appraisal(s) for court testimony shall be completed in preparation for testimony before the Special Court of Eminent Domain and shall be performed and completed in accordance with the requirements set forth herein, as of the date of the filing of the suit.

A letter shall be sent by LPA to the CONSULTANT, requesting the preparation of an appraisal report for court, court pre-trial preparation conferences and meetings with the legal representatives of the LPA, and trial testimony if required. The appraisal for court shall include, but not be limited to, market research, property inspection(s), report writing and preparation, preparation of the discovery material, and transmittal letters. The appraisal report prepared for court testimony shall be reviewed and accepted by the Review Appraiser before any pre-trial conferences and court testimony unless otherwise authorized by the LPA. The LPA shall approve payment of the appraisal report prepared for court testimony, upon review and acceptance for court testimony by the project Review Appraiser.

The LPA may require and request the attendance of the CONSULTANT and/or the Appraiser of Record at conferences for the purpose of discussing certain aspects of the appraisal report or for pre-trial conferences for the purpose of discussing certain aspects of the appraisal report or for trial conferences with the attorney prior to actual court trial. Also, the CONSULTANT, or, more specifically, the Appraiser of Record shall be available for court appearances and court testimony to provide an oral testimony of his appraisal for Court and opinion of market value.

The CONSULTANT shall be responsible for supplying all appraisal expert witness testimony and for delivering all Appraisal Reports for Court to meet all deadlines. In the event the Appraiser of Record cannot fulfill the obligations to testify as the valuation witness, the CONSULTANT shall be responsible for supplying a properly qualified substitute appraisal witness acceptable to the LPA at no additional costs above the agreed upon fee for this service.

No cost were included in this contract for condemnation or court appraisals, testimony or work related to condemnation.

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#### ACQUISITION SCOPE OF WORK

##### General

The CONSULTANT shall perform the acquisition of real property scope of work in accordance with all applicable state and federal laws and regulations, including, but not limited to, the regulations found in the Uniform Act, 49 CFR 24.102.

##### Prior to the Initiation of Negotiations

After the LPA has received written authorization from the MDCOT LPA District Coordinator to begin the acquisition process, but prior to the initiation of the negotiations, the CONSULTANT shall review ROW acquisition maps, instruments of conveyance and appraisals to verify the consistency of the information, such as the description of the area to be acquired and to identify all interests of each parcel.

Additionally, the CONSULTANT shall review title work to identify the owner(s) of record and any mortgages, tax liens, and other liens or judgments. If title update is needed, request shall be forwarded to the LPA Project Director.

##### Waiver Valuation

Prior to the initiation of negotiations, the real property to be acquired shall be appraised, except as provided in 49 CFR 24.102(c)(2). An appraisal may not be required if:

1. The owner is donating the property and releases the Agency from its obligation to appraise the property; or
2. The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data.
3. When the Agency determines the appraisal is unnecessary, the Agency shall prepare a waiver valuation; and
4. The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

The CONSULTANT in consultation with the Review Appraiser for the project shall make a recommendation to the LPA Project Director that a parcel meets the above criteria for being valued by a Waiver Valuation. The LPA Project Director shall provide the CONSULTANT with written approval to proceed with the acquisition of the parcel using a Waiver Valuation Form. (See *Exhibit B*). A Waiver Valuation shall be completed by the CONSULTANT for all applicable parcels and submitted to the LPA Project Director. The LPA shall establish the amount believed to be just compensation based on the total compensation of the Waiver Valuation. The LPA Project Director shall return the Waiver Valuation and the Establishment of Just Compensation to the CONSULTANT upon completion. The CONSULTANT shall use the Waiver Valuation and

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Establishment of Just Compensation to prepare the Fair Market Value Offer (FMVO) for each Parcel. (See Exhibit C.) The LPA Project Director shall approve the FMVO prior to the offer being made to all interest holders of the property to be acquired by the CONSULTANT.

#### Establishment and Offer of Just Compensation

The LPA shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the recommended appraisal of the fair market value of the property, taking into consideration the value of allowable damages or benefits to any remaining property. The amount which the LPA believes is just compensation for the real property shall be established either by the appraisal and appraisal review process or the waiver valuation process. The LPA official must establish the amount believed to be just compensation, per 49 CFR 24.102(d). Promptly thereafter, the LPA shall provide CONSULTANT with the establishments of just compensation of the FMVO to enable the CONSULTANT to make the Fair Market Value written offer to the owner to acquire the property for the full amount believed to be just compensation. (See Exhibit D, Establishment of Just Compensation Offer).

#### Begin Acquisition

As soon as feasible, after the LPA has received written authorization to begin the Right of Way Acquisition phase of the LPA project and the LPA has notified the CONSULTANT of receiving such written authorization, the CONSULTANT shall begin the acquisition process. The CONSULTANT shall make every reasonable effort to acquire the real property expeditiously by negotiation.

#### Administrative Settlement

The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and the authorized LPA official approves such administrative settlement as being reasonable, prudent, and in the public interest. The CONSULTANT shall furnish to the LPA official a written justification and request for Administrative Settlement, which states all applicable information, including trial risks, and all documentation in support of such a settlement, as set forth in 49 CFR 24.102(f) and §43.37.2 of the NS Code of 1972, Annotated as Amended. The LPA shall promptly advise the CONSULTANT of approval of an administrative settlement.

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ownership interests waiver of the right to an appraisal in writing, together with written waiver of the right to receive just compensation.

The instrument of conveyance for the donated parcel shall include the following clause and the clause must be initialed by the landowner(s) and the CONSULTANT acquiring:

"I/We fully understand that we have the right to receive just compensation for the real property herein described based on an appraisal of said property. I/We hereby waive our right to just compensation and donate the real property herein described to \_\_\_\_\_."

In the event that the property owner additionally waives the right to the appraisal process, an additional statement shall be added to the instrument of conveyance as follows:

"I/We further understand that we have the right to request that a fair market value appraisal of the property be made and I/We hereby waive that right."

#### Acquisition by Condemnation

When a parcel is to be acquired by condemnation, CONSULTANT shall furnish the following:

1. Written recommendation for condemnation signed by the CONSULTANT, with any counter offer information given by landowner(s). The condemnation form shall provide physical addresses, not post office boxes, of all parties involved in the condemnation;
2. Statement in contact record that a copy of the Fair Market Value Offer was delivered to every identifiable interest holding including a copy of the Fair Market Value Offer given, and
3. A contact record in a format prescribed by the LPA. Formatting of the contact record and information contained therein will include, but not be limited to, the date of the meeting and the name(s) of person(s) in attendance, along with all contact information; indication that a Citizen's Guide to Acquisition was given to the property owner(s) along with the written FMVO, W-9, tax letter (when appropriate), map with acquisition area highlighted and instrument(s) of conveyance. The contact record shall also indicate the CONSULTANT has inquired if any judgments, lis pendens, tax liens, other liens, or mortgages exist for the subject property (when appropriate). Every contact with the property owner(s) whether in person, over the phone, by letter or email must be documented in detail. Documentation should provide a sequence of events up to the point of agreement.

Once a parcel has been recommended for condemnation by the Consultant and the LPA Project Director has approved the parcel for condemnation, the LPA must pass an Order of Condemnation on each parcel being placed into condemnation.

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#### Acquisition by Deed

When a parcel is acquired by deed, the CONSULTANT shall furnish to the LPA the following:

1. The original documentation that an agreement was reached with the property owner(s) and agreed upon method of payment, with the signature of the CONSULTANT'S acquisition agent or CONSULTANT project manager recommending payment;
2. A copy of the executed instruments of conveyance, along with copies of executed partial releases of deeds of trust including executed Third Party Release Authorization Form from the property owners;
3. An executed IRS Form W-9 from the property owner(s);
4. A copy of a Fair Market Value Offer (FMVO) which was given to every identifiable interest holder, including documentation and justification of any administrative settlements that are issued by the LPA. This Fair Market Value Offer shall be in a form prescribed by the LPA and the CONSULTANT may utilize the MDCOT ROW Operations Manual for reference. (See Exhibit C.);
5. A contact record in a format prescribed by the LPA. Formatting of the contact record and information contained therein will include, but not be limited to, the date of the meeting and the name(s) of person(s) in attendance, along with all contact information; indication that a Citizen's Guide to Acquisition was given to the property owner(s) along with the written FMVO, W-9, tax letter (when appropriate), map with acquisition area highlighted and instrument(s) of conveyance. The contact record shall also indicate the CONSULTANT has inquired if any judgments, lis pendens, tax liens, other liens, or mortgages exist for the subject property (when appropriate). If such liens do exist on the parcel, the CONSULTANT must certify that the property owner(s) have been made aware of these liens, and notified that such liens will be added to the check to be issued to them. If such liens can be satisfied before parcel is submitted for payment, the contact record shall indicate the date paid and proof of payment shall be attached. Every contact with the property owner(s) whether in person, over the phone, by letter or email must be documented in detail. Documentation should provide a sequence of events up to the point of agreement. And;
6. An original closing statement signed by the CONSULTANT and all parties. This closing Statement shall be in a form prescribed by the LPA, but the CONSULTANT may utilize the MDCOT ROW Operations Manual for reference. (See Exhibit E).

#### Acquisition by Donation

The CONSULTANT may acquire the parcel by donation as set forth in 49 CFR 24.108. In so doing, the CONSULTANT must fully inform the owner of the right to receive just compensation for such property, and that the owner(s) may donate such property, or any part thereof, or any interest therein, to the LPA, as the owner(s) shall determine. The CONSULTANT shall assure that the appraisal and review appraisal processes have occurred, unless the LPA determined prior to negotiations that the Waiver Valuation process is applicable and was utilized on the property or the owner(s) have waived the right to an appraisal. The CONSULTANT must obtain from all

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#### Payment and Closings

Before requiring the owner to surrender possession of the real property, the LPA shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the LPA's approved (or recommended) appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property, as set forth in 49 CFR 24.102(f). It may be necessary for the CONSULTANT to be present at real property closings.

The CONSULTANT, when submitting a pay package to the LPA for processing and payment to the landowner(s) shall ensure that all necessary documentation is submitted to the LPA for their files. The CONSULTANT may utilize the MDCOT ROW Operations Manual as reference and utilize The Consultant Checklist, or other similar document. (See Exhibit F).

#### Acquisition Status Reports and Record Keeping

The CONSULTANT shall furnish the LPA Project Director, on an agreed upon basis, a status report in a format prescribed by the LPA, using the MDCOT ROW as a reference. (See Exhibit G, Weekly Acquisition Status Report). This status report shall be inclusive of, but not limited to, number of parcels in the Project, Project number(s), number of files in negotiation, number of files acquired and condemned, parcel numbers, date of negotiations, date of fair market value offers, date acquired, condemnation dates, acreage involved, values on land, improvements, and damages and amount(s) of any administrative settlement(s), if applicable.

All information and files must be maintained by the LPA for a period of three (3) years, and must be made available immediately to MDCOT at any time upon MDCOT's request. These records must be maintained as prescribed by 49 CFR Part 24 §24.9.

#### Payment of Services

The LPA will be liable to CONSULTANT for acquisition fees upon receipt of all necessary and recorded conveyance instruments from the CONSULTANT.

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RELOCATION ASSISTANCE SCOPE OF WORK

General

The CONSULTANT shall provide full and complete Relocation Assistance services for displaced persons in compliance with 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs. For additional reference, the LPA may refer to the MDOT ROW Operations Manual as a guide.

Qualifications Requirements for CONSULTANT Relocation Assistance Agents

The CONSULTANT Relocation Assistance Agents shall meet the following minimum requirements:

- Education:  
Graduation from a standard four-year high school or equivalent (GHD)  
**AND**  
Experience:  
Seven (7) years' experience related to relocation assistance.

Completion of the Relocation Assistance Certification Program courses associated with the International Right of Way Association (IRWA) and the National Highway Institute (NHI) may be substituted for two (2) of the seven (7) years' experience required.

Project Requirements

The CONSULTANT shall assign to each project under contract with the LPA having from one (1) to twenty (20) relocation files, a minimum of one (1) Relocation Assistance Agent having either a SR/WA designation or a Relocation Assistance Certification (R/W-RAC) from the International Right of Way Association (IRWA) or other governing body as determined by the LPA.

For any relocation project having between twenty (20) to forty (40) relocation files, the CONSULTANT shall provide a minimum of two (2) Relocation Assistance Agents whom shall be certified as specified above.

For any relocation project having between forty (40) and (60) relocation files, the CONSULTANT shall provide a minimum of three (3) Relocation Assistance Agents whom shall be certified as specified above.

For any relocation project that exceeds (60) relocation files, an additional Relocation Assistance Agent shall be assigned to each additional twenty (20) relocation files. The additional Relocation Assistance Agents shall be certified as specified above.

If a trainee is assigned to work on a project, the trainee must be supervised by a Relocation Assistance Agent and confined to data collection duties only.

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9. Date offer was recommended for eminent domain proceedings and copy of required notices sent;
10. Date the property was vacated and certification to the removal of all personal property;
11. Explanation as to displacee qualification or non-qualification for any Relocation Assistance payment(s); and
12. A complete copy of the relocation file is to be placed with the condemnation file.

The CONSULTANT shall furnish an up-to-date status report in the time frame prescribed by the LPA in a format prescribed by the LPA (See Exhibit H, Weekly Relocation Assistance Status Report). Reports are due to LPA for the duration of this Contract.

The CONSULTANT assigned to a project shall remain available to all parties until all of the displacees have been relocated and all documentation and claims submitted and final payment made, or until services of the CONSULTANT are otherwise terminated or concluded under this Contract.

The CONSULTANT shall be responsible for notifying the LPA, in writing, within three (3) days of when improvements have been vacated.

Relocation Assistance Procedures

The CONSULTANT shall follow these procedures when called upon to act on behalf of the LPA, unless specifically stated otherwise:

1. The initial contact documentation and pertinent completed forms must be available for review by the LPA, the MDOT ROW Coordinator, and FHWA official(s) or designee(s) at all times until the file is complete and closed. Upon closing, the file shall be sent to the LPA for their records.
2. The certificate of legal residency must be obtained from every displacee.
3. The LPA must approve any administrative settlements for CONSULTANT files. The CONSULTANT shall be required to submit a written justification explaining the amount of and where the administrative settlement was placed. Administrative settlements made must be properly recorded to avoid any duplication of payments.
4. The LPA must advise the CONSULTANT of any file(s) that are condemned to ensure payment(s) are not processed for Relocation Assistance entitlement(s) on condemned file(s) unless pre-approved.
5. The CONSULTANT must attend closings with displacees when replacement property is purchased, rendering the relocation check from the LPA to the closing attorney, and obtaining copies of documentation as listed in Item 6 below. All closing documentation shall be placed in the displacee's file.

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Relocation Assistance Scope of Work Functions

Prior to initiation of acquisition procedures, the CONSULTANT shall conduct a survey of the entire project. Within five (5) days of completion of the Relocation Assistance survey, a summary report of the results shall be submitted to the LPA. The summary report content shall include, at a minimum, a list of all potential displaced persons, identified by file number, type of displacement anticipated, and a summary of any special or unusual problems foreseen.

It is the LPA's responsibility to review and approve all replacement housing computations and moving expense determinations prior to making an offer to the displacee. The LPA shall provide the CONSULTANT a written notice of approval.

All Relocation Assistance payments require final approval by the LPA. When a claim for payment is not approved by the LPA, corrections shall be made and the claim re-submitted to the LPA within a reasonable amount of time as specified by the LPA.

The CONSULTANT shall be responsible for determining all necessary moving expenses and/or cost-new estimates. Any and all fees for cost estimates must be approved by the LPA Project Director prior to being requested by the CONSULTANT. The CONSULTANT shall pay for the estimate and shall be reimbursed by the LPA. For personal property moves of Two Thousand Dollars (\$2,000.00) or more, estimates from two (2) commercial movers are mandatory. When offering Cost New Replacement Housing, estimates from two (2) qualified builders who are licensed and bonded are required.

The CONSULTANT shall maintain adequate records of Relocation Assistance contacts for each file. The CONSULTANT Agent(s) assigned to a project shall contact displacees at least every two (2) weeks until the file is closed or placed in Eminent Domain proceedings. All records shall be kept in a format prescribed by the LPA. These records shall include a detailed narrative account of what transpired, what was said, advisory services provided, and agent signature.

These records shall include, at a minimum:

1. Date and place of contact;
2. Names of persons contacted and summary of discussion concerning the situation, problem(s), question(s) asked and answer(s) given;
3. Determination of replacement housing payments, supplemental rent payments, moving expenses, incidental expenses, in-lieu payments, and re-establishment expenses;
4. Offer letters, discussion of explanation of offer and summary of discussion between displacee and CONSULTANT;
5. Date the displacement parcel was acquired;
6. Amount of compensation paid for the parcel, together with any explanation of any administrative settlement;
7. Summary of advisory information provided to displacee;
8. Pictures of the replacement and displacement dwellings, and the removal and reinstallation of personal property;

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6. Prior to the release of a replacement housing payment check, the CONSULTANT must review the closing documents and verify that the terms of the sale are the same as those stated in the displacee's contract. The following documentation must be obtained at the closing:
  - a. Copy of the executed HUD closing statement signed by the seller, the buyer and the attorney;
  - b. Copy of the executed Warranty Deed;
  - c. Copies of all checks issued from the attorney's escrow account that are pertinent to the purchase price of the replacement dwelling;
  - d. Copy of the executed mortgage note;
  - e. Copy of the Deed of Trust;
  - f. Truth-in-Lending Statement;
  - g. Title opinion and owner's title insurance; and
  - h. Written documentation of closing by CONSULTANT.
7. The CONSULTANT shall obtain a copy of the recorded Warranty deed and if there is a mortgage at the replacement dwelling, a copy of the recorded Deed of Trust prior to closing the file.
8. Replacement properties that are acquired through less than arms-length transactions (relatives, close associates, etc.) must include an appraisal and appraisal review.
9. When a dwelling is vacated, the CONSULTANT shall ensure photographs are taken of the dwelling, internal and external. The CONSULTANT shall provide written documentation of the inspection, along with the key to the dwelling, to the LPA.
10. The CONSULTANT shall, immediately upon recommending a file for condemnation, send the displacee a 90-Day Quick-Take Notice by Certified Mail, return receipt requested, along with an appropriate Eminent Domain Letter. Additionally, the CONSULTANT shall mail by Certified Mail, return receipt requested, the 30-Day Quick-Take Notice after sixty (60) days have passed from the date of delivery of the 90-Day Quick-Take Notice and the required funds are deposited with the Circuit Clerk of the Special Court of Eminent Domain. The CONSULTANT, upon receipt of the Right of Entry and Immediate Possession, and after the expiration of the 30-Day Quick-Take Notice, shall send, at the LPA's discretion and with prior approval, to the displacee a 45-Day Eminent Domain Letter or process for eviction.
11. The CONSULTANT must provide confirmation of sending all 30-Day Quick-Take Notice(s), 90-Day Quick-Take Notice(s), and 30-Day Notice(s), along with the appropriate eminent domain letters as soon as each is sent and delivery confirmation is received.
12. The CONSULTANT shall provide to the LPA non-residential reestablishment expense(s) supporting documentation in accordance with the following:

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- a. A business may qualify as a business with the submission of documentation deemed acceptable by the LPA. Appropriate documentation shall include, but is not limited to, the business Tax ID number, privilege license, business permit, and federal income tax return(s); and
  - b. The use of the non-residential reestablishment expense payment for the purpose of purchasing capital assets is prohibited, unless otherwise stated by LPA. In each instance where a non-residential reestablishment payment is used to construct a new replacement improvement or purchase an existing replacement site and/or improvement, the proposed purchase must be fully documented and pre-approved by the LPA.
13. An increased interest payment (mortgage interest buy-down) is based upon the mortgage in effect upon the displacement dwelling relative to the prevailing interest rate in the area in which the replacement dwelling is located. A mortgage obtained at an interest rate higher than the prevailing interest rate for the area shall not qualify for an increased interest payment. The CONSULTANT shall contact the LPA if any question arises as to the displacee's qualification for this payment.
  14. The CONSULTANT will furnish all information necessary to determine the number of businesses on a parcel and the number of CONSULTANT fees for businesses that may be charged to a parcel for determination and approval by the LPA.
  15. The CONSULTANT shall submit to the LPA a written statement of relocation assistance completion and that the file is closed.
  16. The CONSULTANT is allowed to approve one (1) 30-day extension to vacate the displacement property and remove all personal property. All other extensions must be approved by the LPA Project Director.
  17. The CONSULTANT shall deliver all original documentation to the LPA for their records.

**Payment of Services**

At the discretion of the LPA, the LPA may choose to allow the CONSULTANT to request full payment of relocation fees when the file is closed, or allow the CONSULTANT to submit request, for each parcel, for a partial payment of fifty percent (50%) of the contracted fee when the relocation offer is made and a copy of the offer letter and supporting documentation is provided to the LPA. The CONSULTANT may submit request for final payment of the contracted fee after proper completion of all documentation and expiration/exhaustion of the displacee's relocation assistance benefits, (i.e. that the file may be completely closed).

**Schedule of Exhibits**

- A. Project Progress Schedule
- B. Waiver Valuation Form
- C. Fair Market Value Offer
- D. Establishment of Just Compensation Offer
- E. Right of Way Agent's Closing Statement
- F. Acquisition Consultant Checklist
- G. Weekly Acquisition Status Report
- H. Weekly Relocation Assistance Status Report

**Relocation Assistance Review**

Due to the complexity of the relocations and/or the size of the project, the CONSULTANT shall conduct a review of the documentation of Relocation Assistance payments and services in each file to ascertain compliance with all local, state, and federal regulations.

The CONSULTANT Relocation Review agent(s) shall be independent of the Relocation Assistance agent(s) and shall provide a report to the CONSULTANT upon conclusion of review of each relocation file.

Relocation assistance review shall include the following:

1. Review Relocation Assistance Agent(s) statement.
2. Review relocation comparable brochure.
3. Review and approve purchase supplement and moving expense offer computation for residential owners;
4. Review and approve rent supplement and moving expense offer computation for residential tenants;
5. Review and approve moving expense offer computation and business reestablishment for business owners and business tenants;
6. Review and approve all claims for purchase supplement payment, incidental expense, and moving expense for residential owners;
7. Review and approve all claims for rent supplement payment and moving expenses for residential tenants;
8. Review and approve all claims for business reestablishment, search expense, fixed payment, and moving expense for business owners and business tenants; and
9. Review and approve closure of all relocation files.

*Exhibit C*

**FAIR MARKET VALUE OFFER**

LPA \_\_\_\_\_

Name:	Date:
Address:	Project:
	County:
	ROW Parcel(s):

It is necessary that the LPA \_\_\_\_\_ acquire from you certain property necessary for the construction of this project. The identification of the real property and the particular interests being acquired are indicated on the attached instrument.

The value of the real property interests being acquired is based on the fair market value of the property and is not less than the approved appraised value/waiver valuation disregarding any decrease or increase in the fair market value caused by the project. This fair market value offer includes all damages and is based on our approved appraisal/waiver valuation in the amount of \$\_\_\_\_\_.

\_\_\_ Appraisal \_\_\_ Waiver Valuation. This Waiver Valuation was made based upon recent market date in this area.

**This acquisition does not include oil, gas, or mineral rights, but includes all other interests.**

Unless noted otherwise, this acquisition does not include any items which are considered personal property under Mississippi State Law. Examples of such items are household and office furniture and appliances, machinery, business and farm inventory, etc.

The real property improvements being acquired are:

\_\_\_\_\_

The following real property and improvements are being acquired but not owned by you:

\_\_\_\_\_

Separately held interest(s) in the real property are valued at \$\_\_\_\_\_. These interests are not included in the above fair market value offer.

Land Value:	\$
Improvements:	\$
Damages:	\$
<b>TOTAL FAIR MARKET VALUE OFFER</b>	<b>\$</b>

NOTE: All interests must be acquired by the LPA before any payment will be made.

\_\_\_\_\_  
Right of Way Acquisition Agent  
\_\_\_\_\_  
(Consultant or LPA)

*Exhibit D*

**Establishment of Just Compensation Offer**

This document is prepared pursuant to Federal regulation at 49 CFR 24.102(i).

"Establishment and offer of just compensation. Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An Agency official must establish the amount believed to be just compensation."

The property that is the subject of this offer of just compensation is as follows:

**Owner:**  
**Parcel #:**  
**Project #:**  
**County:**

Under the authority conveyed to me by the (name of LPA) \_\_\_\_\_ and based on the \_\_\_\_\_ recommended appraisal or the \_\_\_\_\_ approved Waiver Valuation for the above named property, which is inclusive of all compensable interests, I, (name) \_\_\_\_\_ (title) \_\_\_\_\_, do hereby establish the (name of LPA) \_\_\_\_\_ offer of what is believed to be just compensation for the acquisition of the real property rights specified, in the amount of \$ \_\_\_\_\_.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT 3  
FEES AND EXPENSES**

The LPA shall pay the CONSULTANT on an actual Labor Hour/Unit Cost per parcel Basis for the satisfactory completion of the Scope of Work set forth under "Exhibit 2" hereto, or all salaries, payroll additives, overhead, direct costs and the CONSULTANT'S fixed fees attributable to this CONTRACT.

Actual costs as the term is used herein shall include all direct salaries, payroll additives, overhead, and direct costs. Direct salaries are those amounts actually paid to the person performing the Services which are deemed reasonably necessary by the LPA for the advancement of the Scope of Work. Payroll additives and overhead consist of employee fringe benefits and that part of CONSULTANT'S allowable indirect costs attributable to the Contract.

Direct Costs are those charges deemed reasonably necessary by the LPA for the successful completion of the Scope of Work which are charged directly to the project and not included in overhead. The LPA will reimburse the CONSULTANT'S actual documented expenses; or the amount allowable under the current edition of the MDOT State Travel Handbook, whichever is lower. Except as otherwise specifically provided herein, the procedures generally outlined in the MDOT State Travel Handbook shall govern the allowability of any expense reimbursement. (e.g. no meal reimbursement when there is no overnight stay). All Direct costs shall be substantiated with supporting documentation in accordance with the MDOT State Travel Handbook. All direct costs (except meals) must be substantiated by supporting data, i.e. mileage, log books, receipts, etc.

All other expenses will be reimbursed upon receipt of acceptable paid invoices.

Fixed-fee as the term is used herein shall mean a dollar amount established to cover the CONSULTANT'S profit and business expenses not allocable to overhead for the successful completion of the Services.

Labor Hour rate as the term is used herein shall include all direct salaries, payroll additives, overhead, and profit (for Phase II Eminent Domain appraisal pre-trial and trial testimony). The Labor Hour rate shall be established in the Rate Table of Exhibit 3. Labor Hour rates are not subject to any adjustments on the basis of the CONSULTANT'S cost experience in performing the services in the CONTRACT. The Labor Hour rates shall not exceed those rates established in the Rate Table of Exhibit 3.

Unit-cost rates as the term is used herein shall include all direct salaries, payroll additives, overhead, direct costs and profit, as well as any other associated expenses. The Unit-Cost rates shall be established in the Rate Table of Exhibit 3. Unit-cost rates are not subject to any adjustments on the basis of the CONSULTANT'S cost experience in performing the services in the CONTRACT. The Unit-cost rates shall not exceed those rates established in the Rate Table of Exhibit 3.

- All charges for services must be substantiated by supporting data, i.e. certified time sheets, daily logs, check stubs, pay vouchers, etc. See the **Real Estate Services Fee Schedule found earlier in this document for detailed expenses.**

\*Note: If services stated are not rendered then charges will not be applied

\*Note: Under no circumstances shall the amount payable by the LPA for this assignment exceed the Total Maximum Allowable Costs of **\$79,965** (Total of all Charges) without the prior written consent of both parties.

The LPA may retain 5% of the CONSULTANT'S invoice amount until a final payment request has been received an audit of the total PROJECT cost to date has been completed by the LPA or its designee.

EXHIBIT 5

NOTICE TO CONTRACTORS, FEDERAL AID CONTRACT  
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964  
COPELAND ANTI-KICKBACK ACT DAVIS BACON ACT  
CONTRACT WORK HOURS AND SAFETY STANDARDS ACT  
CLEAN AIR ACT, ENERGY POLICY AND CONSERVATION ACT  
DISADVANTAGED BUSINESS ENTERPRISES ACT, WORKER VISIBILITY

During the performance of this CONTRACT, the CONSULTANT, for itself, its assignees and successor-in-interest (hereinafter referred to as the "CONSULTANT") agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT will comply with the Regulations of the I.P.A. relative to nondiscrimination in Federally-assisted programs of the U. S. Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this CONTRACT.
2. **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, religion, color, sex, national origin, age or disability in the selection and retention of subconsultants including procurement of materials and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when this CONTRACT covers a program set forth in Appendix B of the Regulations. In addition, the CONSULTANT will not participate either directly or indirectly in discrimination prohibited by 23 C.F.R. 710.405(b).
3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all Solicitations, either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurement of materials or equipment, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this CONTRACT and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, national origin, age or disability.
4. **Anti-kick back provisions:** All CONTRACTS and subcontracts for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each CONSULTANT or subconsultant shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The CONSULTANT shall report all suspected or reported violations to the I.P.A.
5. **Davis Bacon Act:** When required by the federal grant program legislation, all construction contracts awarded to contractors and subcontractors in excess of \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act, contractors shall be required

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which may result in the termination of this CONTRACT or such other remedies as the MDOF deems appropriate.

10. **Worker Visibility:** All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for the purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel – personal protective safety clothing that is intended to provide conspicuity during both daytime and nighttime usage, and that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004 publication entitled "American National Standard for High-Visibility Safety Apparel and Headwear" – for compliance with 23 CFR, Part 634.

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to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week.

6. **Contract Work Hours and Safety Standards Act:** Where applicable, all contracts awarded by contractors and subcontractors in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
7. **Clean Air Act:** Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (Contracts and subcontracts in amounts in excess of \$100,000).
8. **Energy Policy and Conservation Act:** Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).
9. **Disadvantaged Business Enterprises (DBE):** It is the policy of the MDOF to comply with the requirements of 49 C.F.R. 26, to prohibit unlawful discrimination, to meet its goal for DBE participation, to meet that goal whenever possible by race-neutral means, to create a level playing field, and to achieve that amount of DBE participation that would be obtained in an non-discriminatory market place. To meet that objective in any United States Department of Transportation assisted contracts, the I.P.A. and the CONSULTANT shall comply with the "Mississippi Department of Transportation's Disadvantage Business Enterprise Programs For United States Department Of Transportation Assisted Contracts"

Neither the CONSULTANT, nor any sub-recipient or sub-consultant shall discriminate on the bases of race, color, national origin, or sex in the performance of this CONTRACT. The CONSULTANT shall carry out applicable requirements of 49 C.F.R. 26 in the award and administration of United States Department of Transportation assisted contracts. Failure of the CONSULTANT to carry out those requirements is a material breach of this CONTRACT.

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EXHIBIT 6

CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION AND OTHER RESPONSIBILITY MATTERS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – Certification in accordance with Section 29.510 Appendix A, C.F.R./Vol. 53, No. 102, page 19210 and 19211:

- (1) The CONSULTANT certifies to the best of its knowledge and belief that it and its principals:
  - (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 I.P.A. of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or CONTRACT under a public transaction, violation of federal or state antitrust statutes or I.P.A. 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 I.P.A. of any of the offenses enumerated in paragraph (f)(5) of this certification;
  - (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; and
  - (e) has not either directly or indirectly entered into any agreement participated in any collusion; or otherwise taken any action in restraint of free competitive negotiation in connection with this CONTRACT.
- (2) The CONSULTANT further certifies, to the best of his/her knowledge and belief, that:
  - (a) 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, an officer or employee of Congress, or employee of a member of Congress in connection with the awarding 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; and

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(b) 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 Congress, or any 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 pre-requisite 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 CONSULTANT shall include the language of the certification in all subcontracts exceeding \$25,000 and all sub-consultants shall certify and disclose accordingly.

I hereby certify that I am the duly authorized representative of the CONSULTANT for purposes of making this certification, and that neither I, nor any principal, officer, shareholder or employee of the above firm has:

- (a) employed or retained for LPA, percentages, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this agreement, or
- (b) agreed, as an express or implied condition for obtaining this CONTRACT, to employ or retain the services of any firm or person in connection with carrying out the agreement, or
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement; except as herein expressly stated (if any).

I acknowledge that this Agreement may be furnished to the Federal Highway Administration, United State Department of Transportation, in connection with the Agreement involving participation of Federal-Aid Highway funds, and is subject to applicable state and federal laws, both criminal and civil.

SO CERTIFIED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

ATLAS RIGHT OF WAY SERVICES, LLC

BY: \_\_\_\_\_  
JONATHON NULL

ATTEST: \_\_\_\_\_

NOTARY: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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CERTIFICATION OF THE LPA

I hereby certify that I am the Chief Administrative Official, duly authorized by the LPA to execute this certification and that the above consulting firm or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, firm or person, or
- (b) pay, or agree to pay, to any firm, person organization, any fee, contribution, donation, or consideration of any kind except as here expressly stated (if any).

SO CERTIFIED on the 25 day of June, 2023

LPA [Signature]  
CITY OF PETAL

[Signature]  
Chief Administrative Official

EXHIBIT 8

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[Signature]  
Notary

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