

CITY OF BILOXI
AGENDA ITEM
FACT SHEET

Item No.: 4 F

Council Meeting Date: July 22, 2014

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor A.J. Holloway, Jr. 

CONTACT PERSON/TELEPHONE: David Nichols, CAO

SUMMARY EXPLANATION: Resolution accepting the bid of W.G. Yates & Sons Construction Company as the lowest and best bid for the Caillavet Park Package 3 – General Works Project.

Resolution Ordinance Public Hearing Routine Agenda

Exhibits for Review

Contract Minutes Plans/Maps Deed Lease

Other (Specify): Exhibits "A", "B", "C", "D" and "E"

Submittal Authorization: Council President Mayor

STAFF RECOMMENDATION:

Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote: Councilmember Yes No Other

Councilmember Yes No Other

Lawrence _____
Gines _____
Newman _____
Deming _____

Tisdale _____
Glavan _____
Fayard _____

ACTION TAKEN:

GT/mw 072214dleg

Resolution No. _____

RESOLUTION ACCEPTING THE BID OF
W.G. YATES & SONS CONSTRUCTION COMPANY AS THE LOWEST
AND BEST BIDDER FOR THE CAILLAVET
PARK PACKAGE 3 – GENERAL WORKS PROJECT

WHEREAS, on July 9, 2014, bids were received for Project No. COB 978 and DPA 12080, the Caillavet Park Package 3 – General Works Project (a copy of the certified bid tabulation is attached hereto as Exhibit “A”);

WHEREAS, W.G. Yates & Sons Construction Company (“Yates”) submitted the apparent lowest and best bid in the amount of \$32,377,000.00, for the stadium construction (a copy of Yates’ bid is attached hereto as Exhibit “B”);

WHEREAS, Yates’ bid contains fifteen (15) add alternatives/deductions which the City of Biloxi has elected to reject;

WHEREAS, the amount of all deductions which will not be taken by the City totals \$1,462,100.00;

WHEREAS, Yates’ bid in the amount of \$32,377,000.00, minus the amount of all deductions which is \$1,462,100.00, renders Yates’ true base bid to be \$30,914,900.00;

WHEREAS, according to the project architect, the remaining funds allocated by the architect for the Caillavet Park Package 3 – General Works Package total \$28,706,698.80;

WHEREAS, the City of Biloxi has elected to avail itself of the authority provided in Miss. Code Ann. § 31-7-13 (d)(iv) to negotiate with Yates, as the lowest bidder, in order to enter into a contract for an amount not to exceed the amount of the funds allocated for this project;

WHEREAS, the City of Biloxi has negotiated with Yates for a contract price of \$30,959,000.00, minus the Value Engineering Options which total \$1,841,850.00, for a total contract price of \$29,117,150.00 (a copy of the Value Engineering Options are attached hereto as

Exhibit “C”); and,

WHEREAS, it is the recommendation of Dan Gaillet, Public Works Director; Damon Torricelli, City Engineer, as well as Leigh Jaunsen, the City’s Project Architect, (see (Collective) Exhibit “D” attached hereto) to accept a bid and award a contract to W.G. Yates & Sons Construction Company for Project No. COB 978 and DPA 12080, the Caillavet Park Package 3 – General Works Project, in the negotiated amount of \$29,150,250.00.

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

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

SECTION TWO. The Mayor and/or Municipal Clerk be, and hereby, are authorized to accept a bid submitted by W.G. Yates & Sons Construction Company in the amount of \$29,150,250.00 for Project No. COB 978 and DPA 12080, the Caillavet Park Package 3 – General Works Project.

SECTION THREE. The Mayor and/or Municipal Clerk be, and hereby are, authorized to enter into and execute an agreement with W.G. Yates & Sons Construction Company for Project No. COB 978 and DPA 12080, the Caillavet Park Package 3 – General Works Project, in a form substantially the same as that attached hereto as Exhibit “E”.

CERTIFIED BID TABULATION FORM

Project # COB 978 / DPA 12080 Bid Date: Wednesday, 09 July 2014 Bid Time: 4:00 PM CDT
 Project Title: Caillavet Park Package 3 - General Works Owner: City of Biloxi Professional: Dale Partners Architects P.A.

Contractor: **W. G. Yates & Sons Construction Company**
 115 Main Street, Biloxi, Mississippi 39530 / P: (228) 374-6011
 Certificate of Responsibility No.: 01824-MC
 Certificate Expiration Date: 4/8/2015
 Bid Bond: Fidelity & Deposit Company of Maryland c/o Zurich
 Security Company:
 905-B (in duplicate)
 905-D Certified Employment (#1 X) (#2 X) (#3 X) (#4 X)
 Addenda Received:

Item #	Description	Unit Price	Per	Quantity	Total Price
1	Add Traffic Counting Top of Garage	\$74,800.00	(+)	2	\$149,600.00
2	Add Change Screen Inlet Pond	\$630,000.00	(+)	3	\$1,890,000.00
3	Add to Finish Out Sullies	\$282,000.00	(+)		\$282,000.00
4	Add Main Fence SSE of Station	\$13,200.00	(+)	5	\$66,000.00
5	Add Electrical Sullies - South Plaza	\$21,300.00	(+)	6	\$127,800.00
6	Add Infiltration North Plaza	\$4,200.00	(+)	9	\$37,800.00
7	Replace H/D Concrete w/ Asphalt	\$1,600.00	(+)	8	\$12,800.00
8	Replace H/D Concrete w/ Asphalt	\$24,900.00	(+)	12	\$298,800.00
9	Modify Electrical Paneling Features to Match	\$15,000.00	(+)	11	\$165,000.00
10	Revised for Sullies Station Churn in Run of Culvert Churn	\$42,300.00	(+)	14	\$592,200.00
11	Provide synthetic grass @ lawn area in Run of grass and Infiltration	\$1,077,000.00	(+)	15	\$16,155,000.00
12	Time Adjustment from 300 to 365 Calendar Days				(\$1,000,000.00) (-)
13	ADLEDAVO Scoreboard - 16' x 30' VD				\$1,720,000.00 (+)
14	ADLEDAVO Scoreboard - 22' x 48' VD				\$282,000.00 (+)

#	Description	Unit Price	Per	Quantity	Total Price	Unit Price / Qty	Per	Quantity	Total Price
14	Evergreen Giant Linole (4" pot)	\$657.74	/EA			\$1.06	/EA		
15	Celebration Bermuda	\$211.00	/EA			\$2.58	/EA		
16	Additional Piles - 16" dia.	\$44.30	/EA			\$30.92	/Linear Foot		
17	Remobilization	\$24.56	/EA			\$57,500.00	Lump Sum		
18	Additional Steel	\$5.87	/EA			\$1,351.30	/Ton		
19	Piles - Qty of Grout for Piling	\$16.01	/EA			840	Cubic Yards		
20	Piles - Qty of Reinforcing Steel	\$6.31	/EA			30	Tons		
21	Piles - Unit Price for Grout	\$30.53	/EA			\$153.18	/Cubic Yards		
22	Piles - Unit Price for Reinforcing Steel	\$29.44	/EA			\$833.18	/Ton		
23	Structural & Misc. Concrete - Qty of Ready Mix Concrete	\$4.69	/EA			\$6,050	Cubic Yards		
24	Structural & Misc. Concrete - Qty of Reinforcing Steel	\$24.56	/EA			\$1.06	/EA		
25	Struct. & Misc. Concrete - Unit Price - Ready Mix Conc.	\$24.56	/EA			\$2.58	/EA		
26	Struct. & Misc. Concrete - Unit Price for Reinforcing Steel	\$29.44	/EA			\$30.92	/Linear Foot		
27	Struct. & Misc. Steel - Unit Price for Structural Steel	\$4.69	/EA			\$57,500.00	Lump Sum		
28	Struct. & Misc. Steel - Unit Price for Structural Steel	\$24.56	/EA			\$1,351.30	/Ton		
29	Masonry - City of Concrete Masonry Block	\$11.48	/EA			\$6,050	Cubic Yards		
30	Masonry - City of Reinforcing Steel	\$11.48	/EA			\$1.06	/EA		
31	Masonry - Unit Price of Concrete Masonry Block	\$11.48	/EA			\$2.58	/EA		
32	Masonry - Unit Price of Reinforcing Steel	\$11.48	/EA			\$30.92	/Linear Foot		

I certify that this is a correct tabulation of all bids received for this Project on the date stated above.
 Signature: *[Signature]*
 Leigh Grimes Jaunsen, AIA, Partner
 Date: 7.17.14

W. G. YATES & SONS CONSTRUCTION COMPANY
POST OFFICE BOX 456
PHILADELPHIA, MS 39350

MAYOR'S OFFICE
P. O. BOX 429
BILOXI, MS 39533

RECEIVED
JUL 09 2014
BY CAW 3:55pm

SEALED BID ENCLOSED FOR:
BILOXI BASEBALL STADIUM, PACKAGE 3: GENERAL WORKS,
CAILLAVET PARK PROJECT NUMBER 978

CERTIFICATE OF RESPONSIBILITY #:
11824-MC

PROPOSAL FORM (Continued)

specifications. For failure to complete the work on time, the Bidder further agrees to pay liquidated damages in accordance with the Specifications, after the 300 calendar days designated for completion of the work.

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

Addendum No. <u>1</u>	Dated <u>06/20/14</u>
Addendum No. <u>2</u>	Dated <u>06/27/14</u>
Addendum No. <u>3</u>	Dated <u>06/30/14</u>
Addendum No. <u>4</u>	Dated <u>07/03/14</u>

TOTAL ADDENDA: 4

(Must agree with total addenda issued prior to opening of bid)

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

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

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

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

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

The bid security/proposal guaranty attached in the form of a certified check, cashier's check or bid bond in the sum of 5% of bid
\$ _____)

Proposal Form
Section 905-A
2 of 13
Addendum Three

PROPOSAL FORM (Continued)

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

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

9th day of July, 20 14.

Respectfully submitted, W. G. Yates & Sons Construction Company
Contractors

By:  Chet Nadolski

Title: Senior Vice President

Address: 115 Main Street

Biloxi, MS 39530

PROPOSAL FORM (Continued)

(To be filled in if a corporation)

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

<u>William Yates</u> President	<u>115 Main Street, Biloxi, MS 39530</u> Address
<u>Alinda Goss</u> Secretary	<u>P. O. Box 456, Philadelphia, MS 39350</u> Address
<u>Alinda Goss</u> Treasurer	<u>P. O. Box 456, Philadelphia, MS 39350</u> Address



The following is my (our) proposal:

Proposal Form
Section 905-A
4 of 13
Addendum Three

**PACKAGE 3: GENERAL WORKS
CALLAVET PARK: BILOXI STADIUM
PROJECT NUMBER 978**

BASE BID

The Bidder agrees to perform all the work described in the specifications and the drawings as prepared by Dale Partners Architects, P.A. for the sum of

Thirty two million three hundred seventy seven Dollars
(\$ 32,377,000.00)*

ALTERNATE BIDS:

Per Section 012300

ADDITIVE ALTERNATE NO. 01: Provide traffic coating at top floor of garage; sealed concrete to be included as base bid:

Seventy Four Thousand Eight Hundred Dollars Dollars
(\$ 74,800.00)*

ADDITIVE ALTERNATE NO. 02: Provide revisions to add garage screen infill panel; cable barrier system to be included as base bid:

Six Hundred Thirty thousand Dollars
(\$ 630,000.00)*

ADDITIVE ALTERNATE NO. 03: Provide all necessary revisions to finish out suites: mechanical, electrical, lighting, paint, ceiling, base, casework, etc; suites to have "white-box" finish with primer coat as base bid. Add additional walls and doors to convert (4) double suites into (8) singles:

Two hundred eighty two thousand Dollars
(\$ 282,000.00)*

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

Proposal Form
Section 905-A
5 of 13
Addendum Three

PROPOSAL FORM (Continued)

ADDITIVE ALTERNATE NO. 04: Provide all necessary work to include the aluminum fencing as shown on the Drawings (indicated as Alternate No. 04) on the southeastern and eastern side of the stadium. The fencing will be complete with foundations and all connections for a complete fencing system.

Thirteen Thousand Two hundred Dollars
(\$ 13,200.00)*

ADDITIVE ALTERNATE NO. 05: Provide and install (1) 200A & (2) 400A 120/208V Company switches in the south plaza electrical room.

Twenty one thousand three hundred Dollars
(\$ 21,300.00)*

ADDITIVE ALTERNATE NO. 06: Provide all necessary work to install irrigation system at north plaza area as noted on Landscape drawings.

Seven thousand five hundred Dollars
(\$ 7,500.00)*

ADDITIVE ALTERNATE NO. 07: Provide all necessary work to install irrigation within MDOT Right of Way as noted on Landscape Drawings:

One thousand six hundred Dollars
(\$ 1,600.00)*

DEDUCTIVE ALTERNATE NO. 08: Replace Heavy Duty Concrete with an asphalt pavement section for new pavement on north and west side of stadium that consists of 3" asphalt (1" 12.5mm MT HMA, 2" 19.0mm MT HMA) and 8" crushed concrete base; base bid to provide Heavy Duty Concrete Pavement is 7 inches thick, unreinforced, 4000 concrete:

Four thousand two hundred Dollars
(\$ 4,200.00)*

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

Proposal Form
Section 905-A
6 of 13
Addendum Three

PROPOSAL FORM (Continued)

DEDUCTIVE ALTERNATE NO. 09: Provide revisions to structure to omit four bays of structural seating - outermost two bays at left field line and outermost two bays at right field line. Reference Structural Concrete (cast in place trends) and Precast Concrete (precast risers) and Architectural seating drawings.

Four hundred eighteen thousand Dollars
(\$ 418,000.00)*

DEDUCTIVE ALTERNATE NO. 10: Provide all necessary revisions to provide "Senator" stadium chairs with cup holder accessories in lieu of "Citation" stadium chairs in the area identified in the documents as "Club Level Seating Area."

Fifteen thousand Dollars
(\$ 15,000.00)*

DEDUCTIVE ALTERNATE NO. 11: Provide necessary revisions to modify electric, automated plumbing fixtures to be manual operation:

Twenty four thousand nine hundred Dollars
(\$ ~~24,900.00~~ 24,900.00)*

~~ADDITIVE~~ DEDUCTIVE ALTERNATE NO. 12: Provide a price (add/deduct) for a time adjustment to allow for 365 consecutive calendar days from Notice to Proceed to Substantial Completion in lieu of the 300 consecutive calendar days included in the base bid.

One million Dollars
(\$ 1,000,000)*

ADDITIVE ALTERNATE NO. 13: In lieu of the grassing and irrigation system shown in the base bid on the "berm area" (adjacent to right field), provide synthetic grass in the same area as shown on the drawings (and indicated as Alternate No. 13) and as specified.

Forty three thousand three hundred Dollars
(\$ 43,300.00)*

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

Proposal Form
Section 905-A
7 of 13
Addendum Three

PROPOSAL FORM (Continued)

ADDITIVE ALTERNATE NO. 14: Provide turnkey installation, including provision and installation of all items necessary to provide a complete, workable and operational system for Option A – Electronic LED Scoreboard/Video Display with fixed side signage (16 x 30 VD).

One million Seventeen thousand _____ Dollars
1,017,000.00
*(\$ 1,017,000.00)**

ADDITIVE ALTERNATE NO. 15: Provide turnkey installation, including provision and installation of all items necessary to provide a complete, workable and operational system for Option B – Electronic LED Scoreboard/Video Display with fixed side signage (22 x 48 VD).

One Million Seven hundred twenty thousand _____ Dollars
*(\$ 1,720,000.00)**

UNIT PRICES

Per Section 012200 Unit prices to include all necessary material, plus cost for delivery, installation, insurance, applicable taxes, overhead, and profit.

- 1. 329300-A Cathedral Live Oak – 6 – 6.5” Gal: 657.74 per each
- 2. 329300-B Nellie R. Stevens Holly – 30 Gal: 211.00 per each
- 3. 329300-C Chang’s Loropetalum – 7 Gal: 44.30 per each
- 4. 329300-D Shi Shi Camellia – 3 Gal: 24.56 per each
- 5. 329300-E African Iris – 1 Gal: 5.87 per each
- 6. 329300-F Confederate Jasmine – 3 Gal: 16.01 per each
- 7. 329300-G White Fountain Grass – 3 Gal: 6.31 per each
- 8. 329300-H Autumn Empress Encore Az. – 3 Gal: 30.53 per each
- 9. 329300-I Dwarf Palmetto – 3 Gal: 29.44 per each
- 10. 329300-J Dwarf Parson’s Juniper – 1 Gal: 4.69 per each

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

PROPOSAL FORM (Continued)

11. 329300-K Coral Drift Rose – 3 Gal: 24.56 per each
12. 329300-L Dwarf Maiden Grass – 3 Gal: 12.94 per each
13. 329300-M Dwarf Indian Hawthorn – 3 Gal: 11.48 per each
14. 329300-N Evergreen Giant Liriope – 4" Pot: 1.86 per each
15. 329300-O Sod – Celebration Bermuda: 2.58 sq. yard

16. UNIT-PRICE NO. 16: ADDITIONAL PILES: In accordance with Section 012200 Unit Prices, provide a price per linear foot per 16" diameter pile to add to or deduct from the Contract Sum.

Thirty Dollars and Ninety Two Cents

Dollars (\$ 30.92) per linear foot.*

17. UNIT-PRICE NO. 17: REMOBILIZATION: In accordance with Section 012200 Unit Prices, provide a lump sum price for each remobilization.

Fifty - Seven Thousand Five Hundred Dollars and Zero Cents

Dollars (\$ 57,500) lump sum price.*

18. UNIT-PRICE NO. 18: FURNISH AND INSTALL STEEL: In accordance with Section 012200 Unit Prices, provide a price to furnish and install (provide) additional steel per ton to the Project via the Contract Sum.

Five Thousand Three Hundred Sixty One Dollars and

Thirty Cents

Dollars (\$ 5,361.30) per ton.*

19. UNIT QUANTITY NO. 19 – PILES: Description: QUANTITY OF GROUT: In accordance with Section 012200 Unit Prices, provide a cubic yardage quantity of grout for piling.

Eight Hundred Forty Cubic Yards

840

Cubic Yards of Grout for Piling

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

Proposal Form
Section 905-A
9 of 13
Addendum Three

PROPOSAL FORM (Continued)

20. UNIT QUANTITY NO. 20 – PILES: Description: QUANTITY OF REINFORCING STEEL: In accordance with Section 012200 Unit Prices, provide a tonnage quantity of reinforcing steel for piling.

Thirty Tons

30

Tons of Reinforcing Steel for Piling

21. UNIT PRICE NO. 21 – PILES: Description: UNIT PRICE OF GROUT: In accordance with Section 012200 Unit Prices, provide a cost including Gross Receipts Tax, per cubic yard, of grout for piling, material only.

One Hundred Fifty Three Dollars and Eight Teen

Cents

Dollars (\$ 153.18) per cubic yard.*

22. UNIT PRICE NO. 22 – PILES: Description: UNIT PRICE OF REINFORCING STEEL: In accordance with Section 012200 Unit Prices, provide a cost including Gross Receipts Tax, per ton, of reinforcing steel for piling, material only.

Eight Hundred Thirty Three Dollars and Eight

Teen Cents

Dollars (\$ 833.18) per ton.*

23. UNIT QUANTITY NO. 23 – STRUCTURAL AND MISCELLANEOUS CONCRETE: Description: QUANTITY OF READY MIX CONCRETE: In accordance with Section 012200 Unit Prices, provide a cubic yardage quantity of Ready Mix Concrete.

Eight Thousand Fifty Cubic Yards

8,050

Cubic Yards of Ready Mix Concrete

24. UNIT QUANTITY NO. 24 – STRUCTURAL AND MISCELLANEOUS CONCRETE: Description: QUANTITY OF REINFORCING STEEL: In accordance with Section 012200 Unit Prices, provide a tonnage quantity of reinforcing steel for Structural and Miscellaneous Concrete.

Three Hundred Tons

300

Tons of Reinforcing Steel

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

Proposal Form
Section 905-A
10 of 13
Addendum Three

PROPOSAL FORM (Continued)

25. UNIT PRICE NO. 25 – STRUCTURAL AND MISCELLANEOUS CONCRETE: Description: UNIT PRICE OF READY MIX CONCRETE: In accordance with Section 012200 Unit Prices, provide a cost including Gross Receipts Tax, per cubic yard, of Ready Mix Concrete, material only.

Ninety One Dollar and Fifty Seven Cents

Dollars (\$ 91.57) per cubic yard.*

26. UNIT PRICE NO. 26 – STRUCTURAL AND MISCELLANEOUS CONCRETE: Description: UNIT PRICE OF REINFORCING STEEL: In accordance with Section 012200 Unit Prices, provide a cost including Gross Receipts Tax, per ton, of reinforcing steel for Structural and Miscellaneous Concrete, material only.

Eight Hundred Thirty Three Dollars and Eight Teen Cents

Dollars (\$ 833.18) per ton.*

27. UNIT QUANTITY NO. 27 – STRUCTURAL AND MISCELLANEOUS STEEL: Description: QUANTITY OF STRUCTURAL STEEL: In accordance with Section 012200 Unit Prices, provide a tonnage quantity of structural steel for the Project.

Six Hundred Seven Tons

607

Tons of Structural Steel

28. UNIT PRICE NO. 28 – STRUCTURAL AND MISCELLANEOUS STEEL: Description: UNIT PRICE OF STRUCTURAL STEEL: In accordance with Section 012200 Unit Prices, provide a cost including Gross Receipts Tax, per ton, of structural steel for the Project, material only.

Two Thousand Two Hundred Seventy Seven Dollars and Zero Cents

Dollars (\$ 2,277.00) per ton.*

29. UNIT QUANTITY NO. 29 – MASONRY: Description: QUANTITY OF CONCRETE MASONRY BLOCK: In accordance with Section 012200 Unit Prices, provide a quantity, in units of Concrete Masonry Block.

Seventy Four Thousand Units

74,000

Units of Concrete Masonry Block

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

Proposal Form
Section 905-A
11 of 13
Addendum Three

PROPOSAL FORM (Continued)

30. UNIT QUANTITY NO. 30 – MASONRY: Description: QUANTITY OF REINFORCING STEEL: In accordance with Section 012200 Unit Prices, provide a tonnage quantity of reinforcing steel for masonry.

Forty Eight Tons

48

Tons of Reinforcing Steel

31. UNIT PRICE NO. 31 – MASONRY: Description: UNIT PRICE OF CONCRETE MASONRY BLOCK: In accordance with Section 012200 Unit Prices, provide a cost including Gross Receipts Tax, per unit of concrete masonry block, material only.

Four Dollars and Seventy Two Cents

Dollars (\$ 4.72) per unit.*

32. UNIT PRICE NO. 32 – MASONRY: Description: UNIT PRICE OF REINFORCING STEEL: In accordance with Section 012200 Unit Prices, provide a cost including Gross Receipts Tax, per ton, of reinforcing steel for masonry, material only.

Eight Hundred Thirty Three Dollars and Eight
Teen Cents

Dollars (\$ 833.18) per ton.*

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

SUBCONTRACTORS AND SUPPLIERS

Within Twenty-Four (24) hours of the bid opening, the two low Bidders will need to submit to the Architect the following companies they will execute subcontracts for the portions of the Work indicated:

1. Precast Work: _____.
2. Structural Steel Work: _____.
3. Stadium Seating Work: _____.
4. Plumbing Work: _____.
5. HVAC Work: _____.

Proposal Form
Section 905-A
12 of 13
Addendum Three

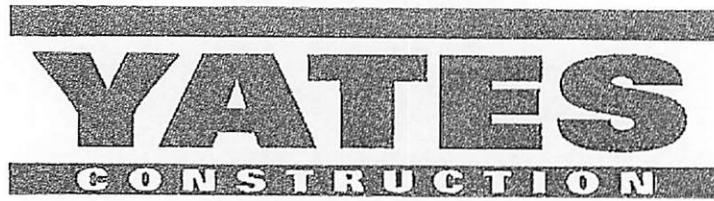
PROPOSAL FORM (Continued)

6. Electrical Work: _____.

7. Athletic Field Work: _____.

END OF PROPOSAL FORM

Proposal Form
Section 905-A
13 of 13
Addendum Three



Equal Opportunity Policy

January 1, 2011

Yates is an equal opportunity employer and as such, reaffirms in policy and practice to recruit, hire, train and promote, in all job classifications, without regard to race, color, religion, sex, national origin, age or disability. Nor will there be any discrimination against persons because they are veterans of the Vietnam era. Similarly, considering the need for reasonable accommodations to their limitations, except with respect to safety considerations, Yates will not discriminate against the qualified handicapped, including disabled veterans.


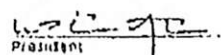
This includes, but is not limited to, the following.

- Hiring, placement, promoting transfer or demotion.
- Recruitment, advertising or solicitation for employment.
- Treatment during employment.
- Rates of pay or other forms or compensation.
- Selection for training
- Layoff or termination.

It is the further policy of this company to comply with the applicable provisions of the Civil Rights Acts of 1964 and 1991 and Executive Order No. 11246, as amended, and 41 C.F.R. 60-40 Code of Federal Regulations. This policy pertains, so far as the responsibility of this company is concerned, to any arrangement under which employees, including trainees and applicants, are selected or referred for work.

This policy of equal employment opportunity applies to all personnel actions such as compensation, benefits, transfers, layoffs, social and recreational activities, and the like.

Our commitment to this policy requires that we audit and periodically report our effectiveness in this program. This will be done by the President and/or the EEO coordinator.


EEO Officer - Kenny Bush
Phone # 601.656.5411

President

Revised: 4/2/01

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

State of Mississippi
County of Harrison

I, Chet Nadolski,
(Name of person signing certification)

individually, and in my capacity as Senior Vice President of
W. G. Yates & Sons Construction Company do hereby certify
(Name of Firm, Partnership, or Corporation)

under penalty of perjury under the laws of the United States and the State of Mississippi that
W. G. Yates & Sons Construction Company, Bidder on Project
(Name of Firm, Partnership, or Corporation)

No. 978, in Harrison County, Mississippi, has not either directly or indirectly entered into any agreement, participated in any collusion; or otherwise taken any action in restraint of free competitive bidding in connection with this contract; nor have any of its corporate officers or principal owners.

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

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

Non-Collusion, Debarment/Ineligible Certification
Section 905-B
1 of 3

NON-COLLUSION, DEBARMENT/INELIBIBLE CERTIFICATION (Continued)

- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in Item (b) of this subsection; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or Local) terminated for cause or default.

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

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

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

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

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

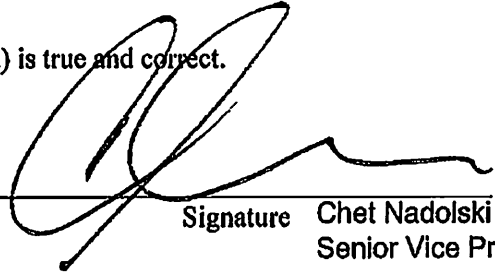
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member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

NON-COLLUSION, DEBARMENT/INELIBIBLE CERTIFICATION (Continued)

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

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

Executed on 07/09/14



Signature Chet Nadolski
Senior Vice President

Revised: 4/2/01

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

State of Mississippi
County of Harrison

I, Chet Nadolski
(Name of person signing certification)

individually, and in my capacity as Senior Vice President of
W. G. Yates & Sons Construction Company do hereby certify
(Name of Firm, Partnership, or Corporation)

under penalty of perjury under the laws of the United States and the State of Mississippi that
W. G. Yates & Sons Construction Company, Bidder on Project
(Name of Firm, Partnership, or Corporation)

No. 978, in Harrison County, Mississippi, has not either directly or indirectly entered into any agreement, participated in any collusion; or otherwise taken any action in restraint of free competitive bidding in connection with this contract; nor have any of its corporate officers or principal owners.

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

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

Non-Collusion, Debarment/Ineligible Certification
Section 905-B
1 of 3

NON-COLLUSION, DEBARMENT/INELIBIBLE CERTIFICATION (Continued)

- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in Item (b) of this subsection; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or Local) terminated for cause or default.

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

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

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

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

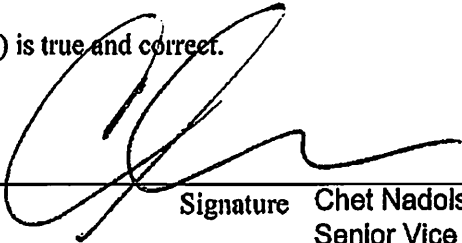
- (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions will be completed and submitted.

NON-COLLUSION, DEBARMENT/INELIBIBLE CERTIFICATION (Continued)

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

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

Executed on 07/09/14



Signature Chet Nadolski
Senior Vice President

**CERTIFIED EMPLOYMENT PLAN FORM FOR
CERTAIN PUBLIC WORKS PROJECTS***

Project No. 978

Bid Date: July 09, 2014

Project Title: Biloxi Baseball Stadium Package 3: General Works Caillavet Park

Institution/Agency: City of Biloxi

Please provide the information requested below:

1. List the types of jobs that will be involved in this Project:
Laborer, Equipment Operator, Rodbuster, Carpenter
2. List the skill level of the jobs involved in the Project:
Experienced/Highly Skilled
3. List the wages for jobs involved in the Project:
\$12.00 to \$20.00
4. List the number of vacant positions that will need to be filled if awarded this Project:
6 - 8
5. Explain how low wage and unemployed individuals will be recruited for job vacancies:
Ads will be placed with local media and employment agencies
6. Attach proof of registration with MDES for taxation purposes.

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

Contractor Name & Authorized Representative: W.G. Yates and Sons Construction/Chet Nadolski

Signature:  Title: Senior Vice President Date: 07/09/14

**Note: This form should only be included in your bid if Miss. Code Ann. § 31-5-37 (Mississippi First Law) applies to the project. This law requires contractors submitting bids for public works projects utilizing specified funding to submit an employment plan with their bid.*

If your bid is accepted, please submit a copy of your employment plan to the Mississippi Department of Employment Security via fax at 601-407-1707, or via e-mail at disasterjobs@mdes.ms.gov.

 **AIA** Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

W. G. Yates & Sons Construction Company
One Gully Avenue
Philadelphia, Mississippi 39350

SURETY:

(Name, legal status and principal place of business)

Fidelity & Deposit Company of Maryland
c/o Zurich, 1400 American Lane
Schaumburg, IL 60196

OWNER:

(Name, legal status and address)

City of Biloxi
780 Ester Blvd.
Biloxi, MS 39530

BOND AMOUNT: \$ Five Percent (5%) of accompanying bid

PROJECT:

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

Package 3: General Works
Caillavet Park Project #:978
Highway 90 & Caillavet Street
Biloxi, Mississippi

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

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

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

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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

Init.

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Signed and sealed this 9th Day of July, 2014.

Hope Crews
(Witness)

Susan Joyner Boto
(Witness)

W. G. Yates & Sons Construction Company
(Contractor as Principal) (Seal)

W G Yates
(Title) William G. Yates, III, President
Fidelity & Deposit Company of Maryland
(Surety) (Seal)

George F. Burnett
(Title) George F. Burnett, Attorney-in-Fact & MS Resident Agent

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by JAMES M. CARROLL, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint George F. BURNETT, Virginia D. BATES, John C KING and Allen D. HARDY, all of Philadelphia, Mississippi, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 19th day of June, A.D. 2012.

ATTEST:

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



By: *Eric D. Barnes*
Assistant Secretary
Eric D. Barnes

James M. Carroll
Vice President
James M. Carroll

State of Maryland
City of Baltimore

On this 19th day of June, A.D. 2012, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, JAMES M. CARROLL, Vice President, and ERIC D. BARNES, Assistant Secretary, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Constance A. Dunn



Constance A. Dunn, Notary Public
My Commission Expires: July 14, 2015

State of Mississippi

BOARD OF CONTRACTORS



W G YATES & SONS CONSTRUCTION COMPANY
POST OFFICE BOX 456
PHILADELPHIA, MS 39350

is duly registered and entitled to perform

- 1) BUILDING CONSTRUCTION
- 2) CONSTRUCTION MANAGEMENT
- 3) ELECTRICAL WORK
- 4) GOLF COURSES
- 5) HEAVY CONSTRUCTION
- 6) HIGHWAY, STREET AND BRIDGE CONSTRUCTION
- 7) INDUSTRIAL PLANT MAINTENANCE
- 8) LANDSCAPING, GRADING, BEAUTIFICATION
- 9) MECHANICAL WORK
- 10) MUNICIPAL AND PUBLIC WORKS CONSTRUCTION
- 11) SITE WORK



CERTIFICATE OF RESPONSIBILITY

No. 01824-MC

Expires Apr. 8, 2015

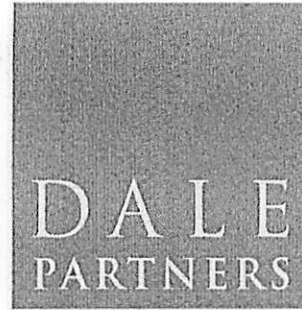
Thomas H. Kline
CHAIRMAN OF THE BOARD

Caillavet Park Baseball Stadium
Potential value engineering options with approximate values

7/16/2014

<u>Description</u>	<u>Approximate Deductive Value</u>
Reduce landscape budget to \$50,000.	(\$50,000)
Minimize steel and concrete at Batter's Eye design.	(\$297,500)
Delete split slab and waterproofing system; replace with topical system and spray insulation	(\$384,000)
Deduct EIFS from exterior block wall; use painted finish	(\$89,250)
Delete high performance coating on steel deck	(\$315,000)
Delete high performance coating on steel; replace with painted finish	(\$130,000)
Delete high performance coating at rails.	(\$120,000)
Change from institutional light fixtures	(\$170,000)
Remove rear mounted cup holders from seats. Team can market and add back at later time.	(\$18,100)
Remove decaflon coating from seats and provide standard powder coat finish. 10 year warranty is reduced to 5 year warranty.	(\$18,000)
Subtotal	(\$1,591,850)
Possible Gross Receipts Tax Savings	(\$250,000)
Total	(\$1,841,850)

LETTER



17 July 2014

Mayor A.J. Holloway
Mayor, City of Biloxi
P.O. Box 775
Biloxi, MS 39533

One Jackson Place
Suite 250
188 East Capitol Street
Jackson, MS 39201-2100
p 601.352.5411
f 601.352.5362

161 Lameuse Street
Biloxi, MS 39530
p 228.374.1409
f 228.374.1414

www.dalepartners.com

project 12080 Caillavet Park Package 3: General Works
regarding Recommendation of Award

Dear Mayor Holloway,

On July 9, 2014, two bids were received and opened on the subject project. Since that bid opening, we have contacted the two low bidders and reviewed their bids. Our review indicates that the bids are in order; therefore, Dale Partners P.A. recommends that a contract for construction be awarded to W.G. Yates & Sons Construction Company as the lowest and best bid. The original Certified Bid Tabulation of the bids is enclosed with this letter.

Based upon our discussions with the City, we understand that the decision has been made to accept Deductive Alternate No.9 in the amount of \$418,000.00, Deductive Alternate No.10 in the amount of \$15,000.00, Deductive Alternate No.11 in the amount of \$24,900.00 and Deductive Alternate No.12 in the amount of \$1,000,000.00 as well as Value Engineering in the amount of \$1,841,850.00; therefore, the Contract Sum will be \$29,077,250.00.

We appreciate the opportunity to work with the City on this important project. Please let us know if you have any questions regarding the recommendation.

Sincerely:

Dale Partners Architects P.A.

A handwritten signature in black ink, appearing to read "Leigh G. Jaunsen".

Leigh G. Jaunsen
AIA, LEED AP BD+C, Partner

enclosures Certified Bid Tabulation
cc David Nichols, City of Biloxi
Dan Gaillet, City of Biloxi
Damon Torricelli, City of Biloxi
Charles R. Alexander, DPA

T. Doug Dale, AIA
Jeffrey R. Barnes, AIA
Charles R. Alexander, AIA
Leigh G. Jaunsen, AIA, LEED AP
Russ S. Blount, AIA, LEED AP

In memory of
Michael A. Barranco, AIA
1962-2011



Public Works Department
Dan Gaillet, P.E., Director

MEMORANDUM

TO: DAVID NICHOLS
CAO

FROM: DAN GAILLET, P.E. *DG*
PUBLIC WORKS DIRECTOR

DAMON TORRICELLI, P.E. *DT*
CITY ENGINEER

RE: CAILLAVET PARK-PACKAGE 3
GENERAL WORKS
PROJECT NUMBER 978

DATE: JULY 17, 2014

Two bids were received on the above referenced project on July 9, 2014. The apparent lowest and best bid was submitted by W.G. Yates & Sons Construction Company ("Yates") in the amount of \$32,377,000.00. This bid package contained fifteen (15) alternates including additions and deletions to the base bid. With the acceptance of alternates 9, 10, 11, and 12, the original bid would decrease to an actual base bid amount of \$30,919,100.00. On advice from legal counsel, the City of Biloxi has negotiated with Yates to formulate Value Engineering Options totaling \$1,841,850.00. With the deduction of these Value Engineering Options the total contract price becomes \$29,077,250.00.

Therefore, submitted for City Council approval is the attached contract awarding the aforementioned project to Yates in the amount of \$29,077,250.00. Please have the necessary documents prepared for Council approval at your earliest convenience.

DG/DT/dt

Attachments

cc: Mayor A.J. Holloway
Trilby Trahan
File

780 Esters Blvd.,
P. O. Box 429
Biloxi, MS 39533
228-435-6271
Fax: 228-435-6179

Visit online at
biloxi.ms.us

Revised: 4/4/14

**SECTION 902
CITY OF BILOXI
CONTRACT FORM**

**STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A LUMP SUM**

THIS AGREEMENT made as of the 16th day of July, in the year 2014 by and between the

CITY OF BILOXI
(hereinafter called OWNER) and

W.G. YATES & SONS CONSTRUCTION COMPANY
115 Main Street
Biloxi, MS 39530

(hereinafter called CONTRACTOR)

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

ARTICLE 1: WORK

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

**PACKAGE 3: GENERAL WORKS
CAILLAVET PARK: BILOXI STADIUM
PROJECT NUMBER 978**

ARTICLE 2: ENGINEER

The project has been designed by DALE PARTNERS ARCHITECTS, P.A. located at 161 Lameuse Street, Biloxi, MS 39530, who is known as the ARCHITECT throughout the specifications. The City Engineer for the City of Biloxi Engineering Division will act as ENGINEER in connection with completion of the Project in accordance with the Contract Documents. It is understood that the City Engineer may designate authority to any member of his staff, as he deems necessary.

ARTICLE 3: CONTRACT TIME

Standard form of Agreement
Section 902
1 of 10

The work herein described shall be completed as required in Section 003113 for the project after the date of the Contract Time commences, also known as the Notice to Proceed Date. This date is established by the date on the Notice to Proceed order.

ARTICLE 4: CONTRACT PRICE

CONTRACTOR submitted the approved bid for the performance of the work described in the contract documents in the total sum of:

Twenty-Nine Million Seventy-Seven Thousand Two Hundred Fifty (\$29,077,250.00).

<u>Total Base Bid</u>	<u>\$32,377,000.00</u>
<u>Deduct Alternate 9: Omit 4 Bays of Structural Seating</u>	<u>-\$418,000.00</u>
<u>Deduct Alternate 10</u>	<u>-\$15,000.00</u>
<u>Deduct Alternate 11</u>	<u>-\$24,900.00</u>
<u>Deduct Alternate 12: Time Adjustment to 365 Day Contract</u>	<u>-\$1,000,000.00</u>
<u>Value Engineering</u>	<u>-\$1,841,850.00</u>
<u>TOTAL CONTRACT SUM</u>	<u>\$29,077,250.00</u>

ARTICLE 5: PROGRESS AND FINAL PAYMENTS

CONTRACTOR shall submit pay requests in accordance with the section entitled "City of Biloxi Testing and Submittal Requirements" of the specification. OWNER shall make progress payments on the basis of CONTRACTOR'S Application for payment as approved by the ENGINEER during the course of this agreement, provided that the estimate reaches the OWNER in due time to be placed on the docket. All progress payments will be on the basis of the approved progress of the work completed and stored to date.

- 5.1 Prior to 50% completion, progress payments will be in an amount equal to: 95% of the work completed, and 95% of material and equipment not incorporated in the work but delivered and suitably stored, less than each case the aggregate of payments previously made.
- 5.2 Once 50% project completion has been obtained, but prior to final completion, progress payments will be in an amount equal to: 97.5% of the work completed, and 97.5% of material and equipment not incorporated in the work but delivered and suitably stored, less than each case the aggregate of payments previously made; provided that the project is on schedule and all work is satisfactory in the opinion of the City Engineer. At 50% project completion, as described above, 50% of the retainage held to date shall be returned.

- 5.3 Upon final completion of the work and settlement of all claims, OWNER shall pay the remainder of all completed work plus any and all retainage provided the Contractor has submitted the Record Drawings as noted in Section 017839.

ARTICLE 6: CONTRACT DOCUMENTS

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

- 6.1 This agreement (Pages 1 to 10, inclusive),
- 6.2 Exhibits to this Agreement,
- 6.3 CONTRACTOR's Proposal and Bonds,
- 6.4 Notice of Award,
- 6.5 Advertisement, Section 901
- 6.6 Testing and Submittal Requirements
- 6.7 Technical Specifications, (Divisions 01 – 49) and City of Biloxi Special Provisions in the Project Manual),
- 6.8 Drawings consisting of Cover Sheet and sheets G001a thru E605,
- 6.9 Any Addenda to the contract documents.
 - Addenda 1, dated 6.20.14
 - Addenda 2, dated 6.27.14
 - Addenda 3, dated 6.30.14
 - Addenda 4, dated 7.03.14
- 6.10 Any modifications, including Change Orders, duly delivered after execution of this Agreement, and
- 6.11 Notice to Proceed.

ARTICLE 7: MISCELLANEOUS

STANDARD FORM OF AGREEMENT (Continued)

- 7.1 Terms used in this Agreement, which are defined in Section 101 of the Specification, shall have the meanings indicated in the Specifications.
- 7.2 Neither the OWNER nor CONTRACTOR shall, without the prior written consent of the other, assign or sublet in whole or in part his interest under any of the Contract Documents; and, specifically, CONTRACTOR shall not assign any moneys due or to become due without prior written consent of OWNER.
- 7.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 7.4 The Contract Documents constitute the entire agreement between OWNER and CONTRACTOR and may be only altered, amended or repealed by a duly executed written instrument.
- 7.5 Contractor shall guarantee all work for two full years after the date of final payment by the OWNER for this project.
- 7.6 The Contractor shall pay liquidated damages as specified under Section 008500 Supplementary Conditions.
- 7.7 Insurance Requirements: CONTRACTOR shall carry commercial general liability insurance coverage (including subcontractors) with limits not less than \$1,000,000 each occurrence; \$2,000,000 aggregate (aggregate applies to all work under this contract); automobile liability - \$1,000,000 combined single limit-each accident; Workers' Compensation and Employers' Liability with a waiver subrogation in favor of the City of Biloxi - Statutory & \$100,000 each accident; \$100,000 each employee; \$500,000 policy limit. Each policy shall be signed or countersigned by a Mississippi Resident Agent of the insurance company. CONTRACTOR further indemnifies and saves the OWNER harmless from and against any loss, damage and liabilities occasioned by, growing out of, or resulting from any default hereunder, relating to the execution of this agreement. The Contractor shall name the City of Biloxi as an additional insured on the Certificate of Insurance furnished to the City from the Insurance Company providing the required coverage. The certificate(s) shall be on the form furnished by the City and will show the types and limits of coverage.

The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the State of Mississippi, property insurance written on a builder's risk "all-risk" policy in the amount of the Contract Sum plus value of subsequent Change Orders, comprising total value for the entire Project at the site on a replacement cost basis. Such property insurance shall be maintained until the date of final payment. This insurance shall include coverage of the City of Biloxi, the Contractor, and Subcontractors in the Project. The form of policy for this coverage shall be Completed

Value. If the CONTRACTOR fails to maintain such insurance then the CONTRACTOR shall bear all repairs costs to the project.

ARTICLE 8: OTHER PROVISIONS

- 8.1 OWNER will monitor the performance of CONTRACTOR against goals and performance standards required herein. Substandard performance as determined by OWNER will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by CONTRACTOR within a reasonable period of time as determined by the OWNER after being notified by OWNER, contract suspension or termination procedures will be initiated.
- 8.2 OWNER may terminate this contract at any time by giving written notice to CONTRACTOR of such termination and specifying the effective date thereof in accordance with section 108.08 of the Book of Technical Specifications. Partial terminations of the Book of Technical Specifications or Proposal Document may only be undertaken with the prior approval of OWNER. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by CONTRACTOR under this agreement shall, at the option of OWNER, become the property of OWNER, and CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed (by unit price) on such documents or materials prior to the termination. Upon termination for convenience, the payment made to CONTRACTOR will be based upon approved units completed. OWNER may also suspend or terminate this Agreement, in whole or in part, if CONTRACTOR materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and OWNER may declare CONTRACTOR ineligible for any further participation in OWNER contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe CONTRACTOR is in noncompliance with any applicable rules or regulations, OWNER may withhold up to fifteen (15) percent of said contract funds until such time as CONTRACTOR is found to be in compliance by OWNER, or is otherwise adjudicated to be in compliance.
- 8.3 CONTRACTOR shall retain all records pertinent to expenditures incurred under this contract for a period of three (3) years after the termination of all activities funded under this agreement, or after the resolution of all Federal Audit Findings, which ever occurs later.
- 8.4 CONTRACTOR agrees to comply with the Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

- 8.5 CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance. CONTRACTOR will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.
- 8.6 CONTRACTOR agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours, the Hatch Act, the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S. C. 276, 327-333) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. CONTRACTOR shall maintain documentation, which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to OWNER for review upon request.
- 8.7 Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions, which are unsanitary, hazardous or dangerous to the participants' health or safety.
- 8.8 Participants employed or trained for inherently dangerous occupations, shall be assigned to work in accordance with reasonable safety practices.
- 8.9 If this contract results in any copyrightable or patentable material, OWNER and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes.
- 8.10 All CONTRACTOR records with respect to any matters covered by this agreement shall be made available to OWNER, grantor agency, the Comptroller General of the United States, their designees or the Federal Government, at any time during normal business hours, as often as OWNER or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by CONTRACTOR within 30 days after receipt by CONTRACTOR. Failure of CONTRACTOR to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments.

STANDARD FORM OF AGREEMENT (Continued)

- 8.11 CONTRACTOR shall retain all records pertinent to subcontracts incurred under this contract for a period of three (3) years after the termination of all activities funded under this agreement, or after the resolution of all Federal audit findings, which ever occurs later. Records for non-expendable property acquired with funds under this contract shall be retained for three (3) years after final disposition of such property.
- 8.12 CONTRACTOR agrees to comply with the following regulations insofar as they apply to the performance of this contract (applies to contracts or subcontracts in excess of \$100,000):
- Clean Air Act, 42 U.S.C., 1857, et seq. (Amended to 42 U.S.C., 7602, et seq.)
 - Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended 1368 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
 - Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 15, as amended.
- 8.13 CONTRACTOR agrees to procure SUBCONTRACTORS in a fair and nondiscriminatory manner.
- 8.14 CONTRACTOR shall ensure that each SUBCONTRACT includes all the provisions of this contract. CONTRACTOR is responsible for monitoring all SUBCONTRACTORS to ensure compliance with the provisions contained herein. CONTRACTOR shall not enter into any SUBCONTRACT without the written approval of OWNER.

ARTICLE 9: MDEQ PROVISIONS

- 9.1 The Contracted Party agrees to allow the SUB-GRANTEE, Departments and Agencies of the State of Mississippi, and any of their duly authorized representatives access to any books, documents, papers, and records of the Contracted Party which are directly pertinent to the Project for the purpose of making audits, examinations, excerpts, and transcriptions.
- 9.2 The Contracted Party represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall be employees or have any contractual relationship with the SUB-GRANTEE.

All the services required hereunder will be performed by the Contracted Party or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work under this Agreement

STANDARD FORM OF AGREEMENT (Continued)

- 9.3 The Contracted Party covenants that he presently has no interest and shall no acquire any interest direct or indirect in the above described Project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contracted Party further covenants that in the performance of this Agreement no person having any such interest shall be employed.
- 9.4 Salaries of personnel performing work under this Agreement shall be paid unconditionally and not less than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contracted Party shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.
- 9.5 The Contracted Party agrees to establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie.

The Contracted Party will comply with Miss. Code Ann. Section 21-39-1, (1972), which prohibits municipal officers and employees from having or owning any interest or share, individually or as agent or employee of any person or corporation, either directly or indirectly, in any contract made or let by the governing authorities or such municipality for the construction or doing of any public work, or for the sale or purchase of any materials, supplies or property of any description, or for any other purpose whatsoever, or in any subcontract arising therefrom or connected therewith, or to receive, either directly or indirectly, any portion or share of any money or other thing paid for the construction or doing of any public work, or for the sale or purchase of any property, or upon any other contract made by the governing authorities of the municipality, or subcontract arising therefore or connected therewith.

The Contracted Party will also be aware of and avoid any violation of Miss. Code Ann. Section 97-11-19 (Supp. 1982), which prescribes a criminal penalty for any public officer who has an interest in any contract passed by the board of which he is a member during the term he was a member and for one year thereafter.

- 9.6 Both parties agree to assist and cooperate with the MDEQ or its duly designated representative in the monitoring of the Project or projects to which this grant relates, and to provide in form and manner approved by MDEQ such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.

- 9.7 It is the duty of the SUB-GRANTEE and Contracted Party to insure the construction of the Project, including the letting of contracts in connection therewith, shall comply with all applicable laws and regulations and requirements of the United States of America or any agency thereof, the State of Mississippi or any agency thereof, or any local government or political subdivision to the extent that such requirements do not conflict with Federal laws and regulations and any regulations or policies established by the Commission on Environmental Quality.
- 9.8 To the extent allowed by State Law, the SUB-GRANTEE and Contracted Party agree to indemnify and save, release, and hold harmless the State of Mississippi, the Commission on Environmental Quality, MDEQ, all of their employees, officers, and the Department's contractors from and against any and all claim, demand, cause of action, liability, loss, damage, injury, suit, judgment, debt and cost, including attorney's fee or expenses on the part of any Contracted Party, their agents or employees or any other parties arising out of or incident to, any and all work under the terms of this Agreement.
- 9.9 The SUB-GRANTEE and Contracted Party acknowledge and agree that MDEQ is not a party, in any manner whatsoever, to any contract between the sub-recipient and the construction contractor(s), engineer(s), attorney(s), equipment supplier(s), subcontractor(s), or between any other parties of any kind whatsoever (hereinafter collectively referred to as "vendor"). The SUB-GRANTEE and the Contracted Party also acknowledge and agree that any benefit to vendors contracting with the SUB-GRANTEE or Contracted Parties arising from, or associated with this Agreement is strictly incidental and all such vendors are not, and are not intended to be considered as third party beneficiaries under any agreement between MDEQ and the SUB-GRANTEE.
- 9.10 Upon execution of any contract between the SUB-GRANTEE and any other party in regard to this project, MDEQ does not assume any authorities, duties, responsibilities, or liabilities under such contract.
- 9.11 The SUB-GRANTEE and its vendors acknowledge and agree that no actions taken by MDEQ, either directly or indirectly, in regard to this project constitute or establish any determinations, authority, duty, responsibility, or liability under the contract(s) between the SUB-GRANTEE and any other party.
- 9.12 The SUB-GRANTEE and its vendors acknowledge and agree that any action taken by MDEQ in its role of grantor, or in its separate and distinct role as regulator shall not in any way change or alter its position as that of grantor.
- 9.13 MDEQ does not have any authority, duty, responsibility, or liability in contract claims or dispute identification, negotiation, resolution, or any other actions regarding contract claims under the contract(s) between the SUB-GRANTEE and any other party.

STANDARD FORM OF AGREEMENT (Continued)

- 9.14 The SUB-GRANTEE and the Contracted Party agree to resolve all claims and contract disputes by negotiations, arbitration, litigation, or other means as provided in the contract documents and state law, prior to submission of any related change order or contract amendment to MDEQ for review and approval, in order to obtain a grant eligibility or allowability determination.
- 9.15 The SUB-GRANTEE and the Contracted Party acknowledge and agree that MDEQ is not obligated to review, comment on, approve, or discuss the merits of any contract claims presented by or to any party. Any MDEQ reviews, approvals, observations, presence at meetings, written communications, verbal communications or other actions are not to be interpreted as addressing the merits of any claims, nor are they to be construed as interpreting the contract between the SUB-GRANTEE and the Contracted Party or any other parties.

IN WITNESSETH WHEREOF, the parties have executed this Agreement the day and year first above written.

OWNER: _____

CONTRACTOR: _____

BY: _____

BY: _____
(Corporate Seal)

ATTEST: _____

ATTEST: _____